



A presentation by

# HILL DICKINSON

# Imaginative Owners and To be or not to be... nice

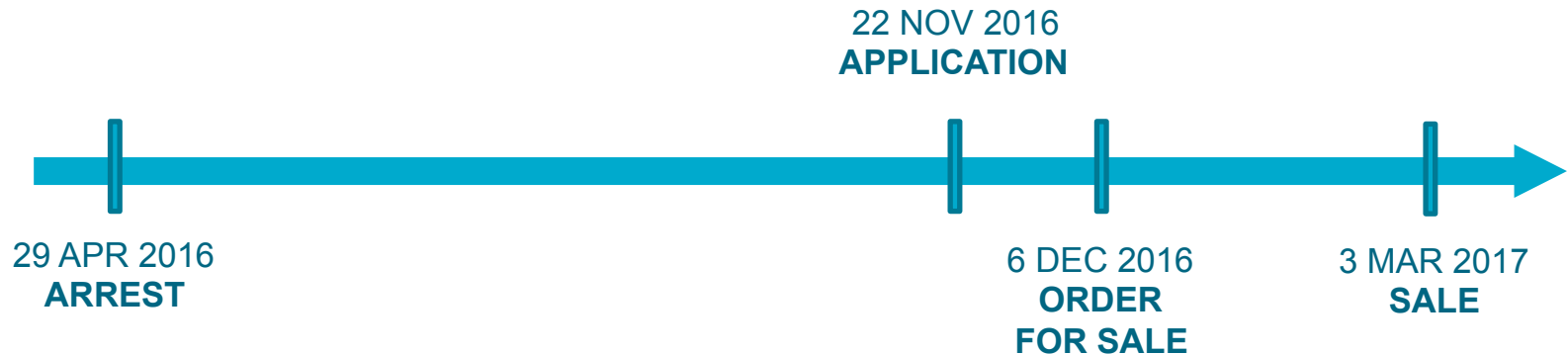
## Arrest of m/v “SOUTHERN STAR”



# The basics

- SOUTHERN STAR was arrested in the United Kingdom on 29 April 2016
- Why? Unpaid bunkers supplied by the client, the arrestor
- Additionally, the owners and/or operators had failed to pay certain crew members
- The Vessel was ordered to be sold by the Admiralty Marshal pursuant to a court order dated 6 December 2016 following the application for default judgment and order for sale made by the arrestor on 22 November 2016
- The sale took place on 3 March 2017, nearly 10 months after arrest

# Imaginative Owners – Plan A: Settlement



From the time of arrest, Bunker supplies directly and through our firm were in almost continuous negotiations with the owners of the vessel, but with no results. Owners wanted the arrest lifted as a pre-condition to them paying their outstanding debts.. “Once the vessel re-starts trading we pay you..”

Being nice is not the same as being weak, however ..

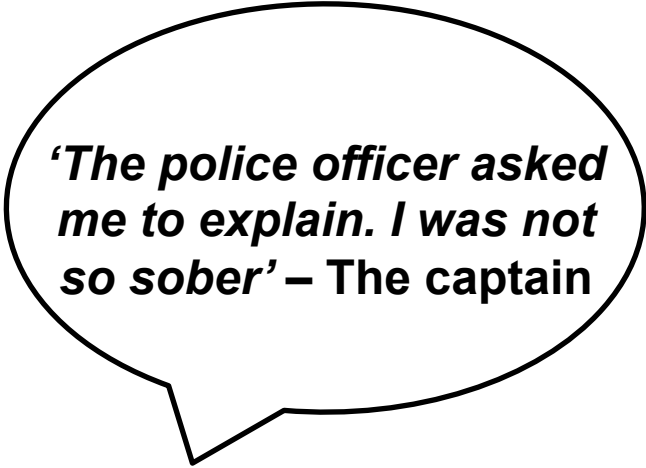


Settlement preferable, but in our profession,  
one can be nice for so long...

## Meanwhile... during the 10 months of arrest

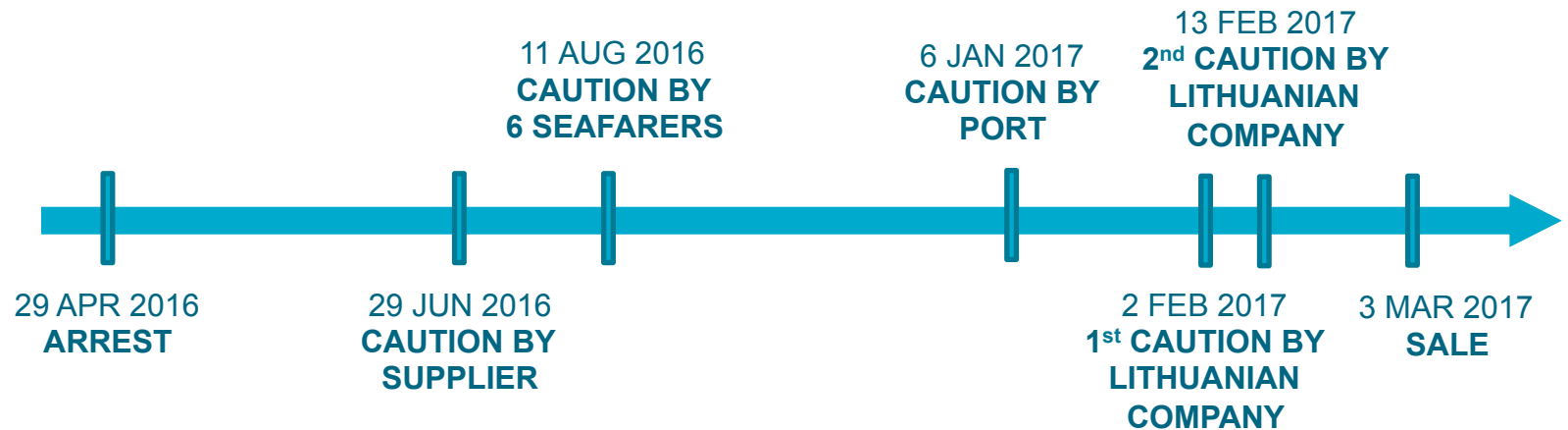
The arrest of the vessel and issues with the crew were widely reported in the relevant online sources, especially regarding some crew members being stranded on board in a foreign port, with supplies at low levels and their wages unpaid for a few months.

On a different note, the ship's captain made the news when he pleaded guilty to being drunk in charge of the ship, during celebrations of the Russian victory day holiday. The sailors' festivities drew the attention of police, and the captain was found to be **nearly three times over** the drink-drive limit.



***'The police officer asked me to explain. I was not so sober' – The captain***

# Cautions against Release



1. By a supplier of necessaries to the vessel
2. By 6 seafarers (ITF) of the vessel for unpaid crew wages
3. By the port for outstanding port dues
4. By a Lithuanian company that had been subrogated to the rights of 14 seafarers for unpaid crew wages



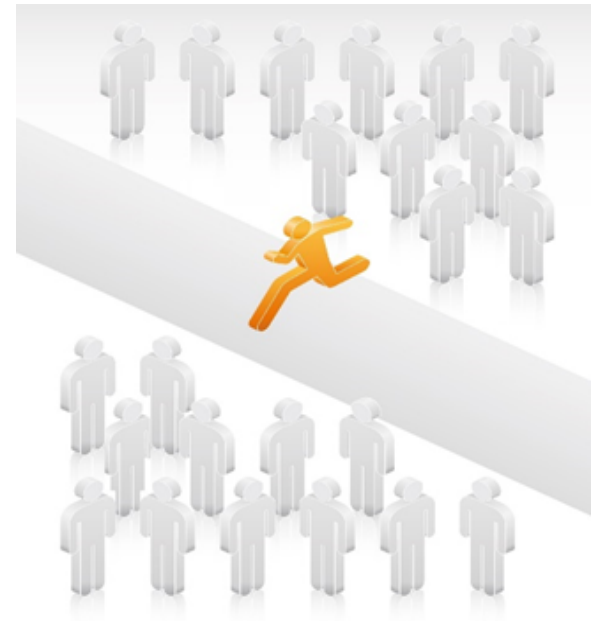
A number of creditors, competing claims and priorities – can we be nice ?...



# Imaginative Owners – Plan B: Assignment

## The 14 Seafarers and the Debt Collector

- Who were they?
- What did they claim? How much?
- Why did they wait until the last minute?
- Were their claims legitimate?
- Would their claim succeed?



# The three claims

- The bunker supplier issued a claim on 29 April 2016
- The port issued its claim on 20 January 2017
- The four remaining seafarers issued their claim on 5 May 2017

Judgments were entered in these three actions by the Admiralty Court.

## 2 remaining Cautioners:

1. The supplier chose not to file a claim and not to take the matter any forward.
- 2. The Lithuanian company failed to issue its claim regarding the unpaid wages of the 14 seafarers.**

# *Issues with Service of Court Documents*

- CPR 61 and Practice Direction 61 supplements CPR 61 by providing, among others, the procedure for service of the arrest warrant (61.5.5 and 61.3.6)

An arrest warrant may be served on the property against which the claim is brought by fixing a copy of the claim form (a) on the outside of the property in a position which may reasonably be expected to be seen;

However, service of any Application is less clear.



Outstanding Cautions against Release proved to be a hurdle

## And the result was...

**PAID IN  
FULL**

The Bunker supplier

Represented by HILL DICKINSON

**PAID IN  
FULL**

The Four seafarers

Represented by HILL DICKINSON

**PAID IN  
FULL**

The port

Represented by other law firm

The claim of the 14  
seafarers brought by

the Lithuanian

Assignee company

Represented by other (non-  
maritime!) law firm

**FAILED**

# Keeping in touch...



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# About the firm

- An international commercial law firm
- More than 850 people, including 175 partners and legal directors
- Offices in the UK, mainland Europe and Asia
- Over 200 years of heritage
- Full-service offering
- Specialists in a wide range of market sectors
- Comprehensive corporate responsibility programme of activity



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