

Abortive repairs workshop

--- *notes* ---

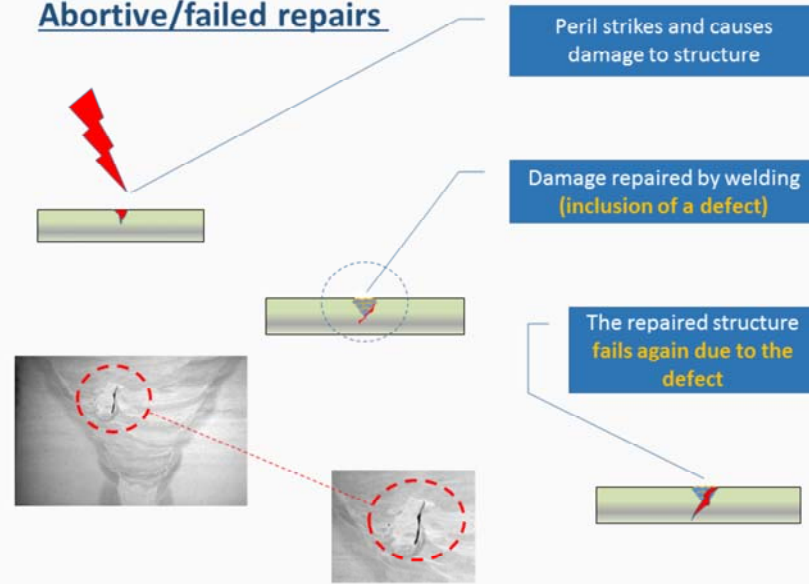
IMCC workshop 2018

Stelios Magkanaris

Fellow of the Association of Average Adjusters



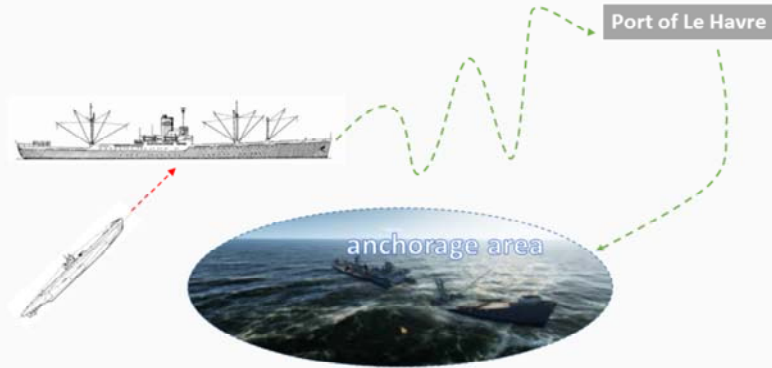
Abortive/failed repairs



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Abortive repairs

Case -A



Proximate cause of the loss ?



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Case - B



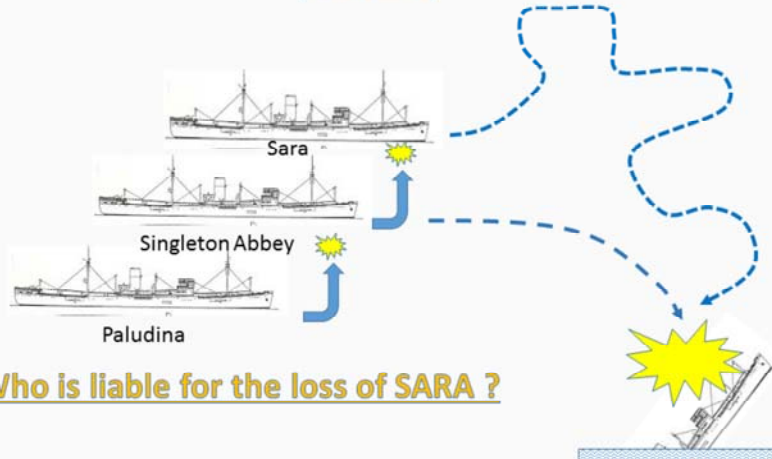
Proximate cause :Collision or peril of the sea ?



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Case - C



Who is liable for the loss of SARA ?

Paludina

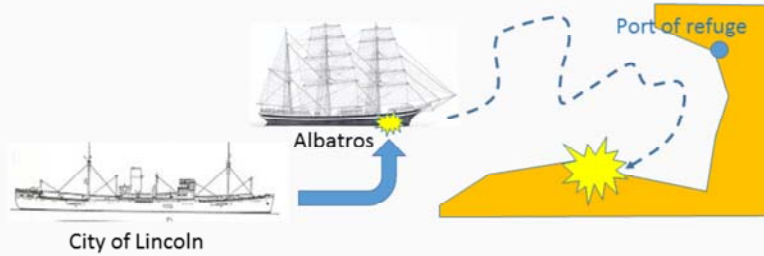
Singleton Abbey

Sara collides with Singleton abbey and sinks

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Case - D



**Did the actions of the captain of ALBATROS constitute
new intervening cause ?**

YES

NO

Case - E



Exxon Houston



**Did the actions of the captain
constitute new intervening cause ?**

YES

NO

Case law

New Intervening Cause

Exxon v. Sofec [1997]



Singleton Abbey v. Palundina [1927]



Sara

No breakage in the causation link

The Ikaria [1918]



Ikaria

Reischer v. Borwick [1894]



Rosa

The City of Lincoln [1889]



Albatros

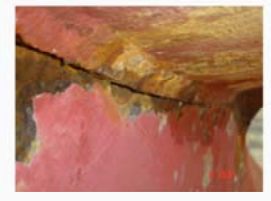
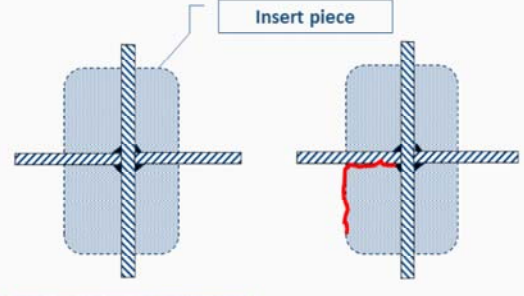
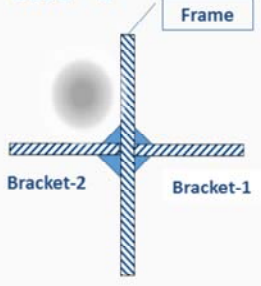
Suggested Parameters / Questions to assess whether a new intervening cause has acted

Foreseeability: Is the cause of the second damage, in all probability and **considering the circumstances** of the first repairs, something that **one would reasonably expect** to be introduced/committed during the repairs?

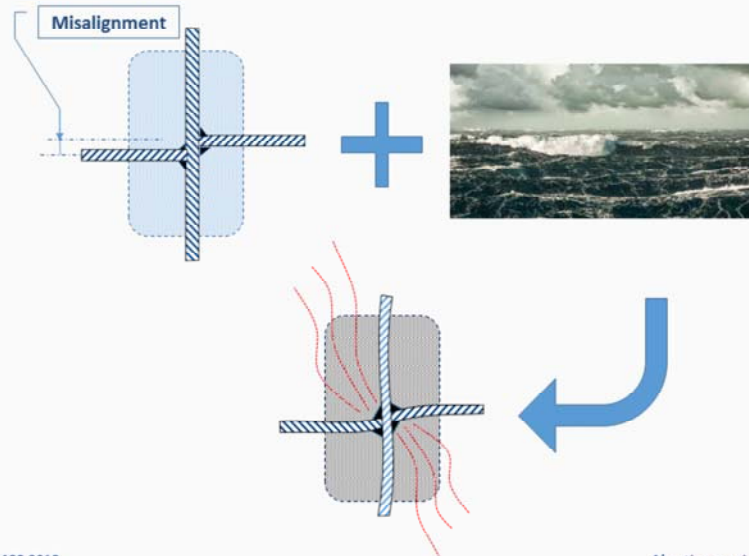
Likelihood : Is the defect that caused the second damage something that, if known, one would likely expect it to cause such a failure of the repairs?

Frequency/time: How many times it has happened ?
How far apart in time are the failures ?
Is it reasonable for the same negligence to have occurred so many times ?

Case - 1



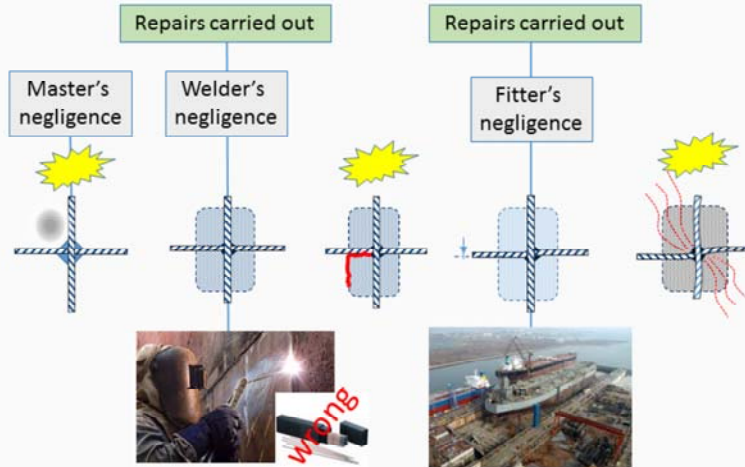
Case - 1



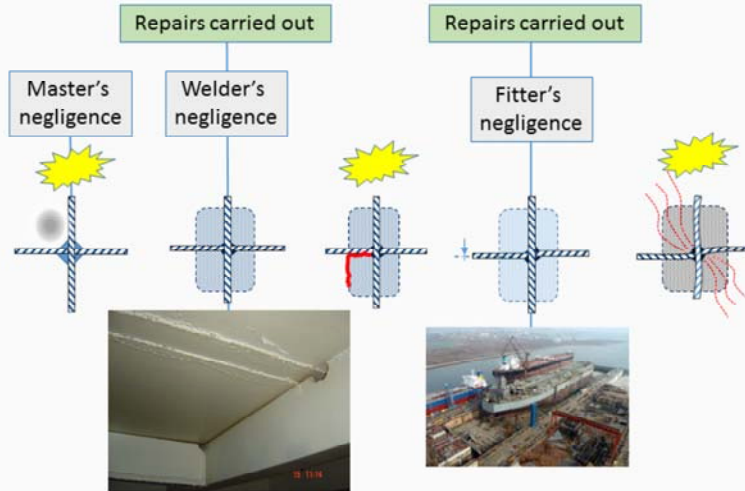
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Case – 1 : How many incidents ?



Case – 1 : How many incidents ?



How many accident, occurrences? :1(?), 2(?) or 3(?)

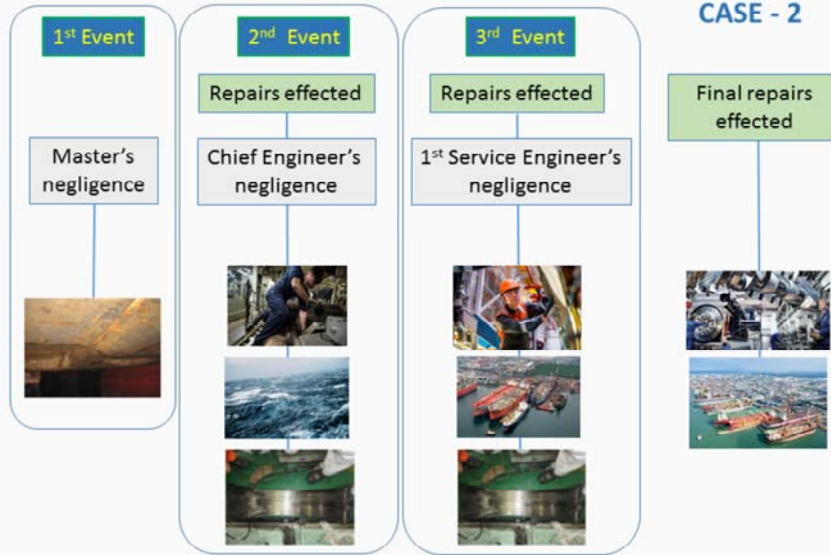
Case – 2 : How many incidents ?



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How many accident, occurrences? :1(?), 2(?) or 3(?)



**What is the
fundamental difference
between
case 1 & case 2 ?**

The bonus material ...



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Abortive repairs

The GL saga ...

- Explosion at the forecastle and fire in No. 1 C/T
- Looters extend the fire to No. 5 C/T
- Fire rages all across the deck
- Fire self extinguished and vessel is captured by looters
- Local armed warlords onboard, different every day
- Vessel drifting in the river
- Looters cause fire in the accommodation

- **What peril caused what damage ?**
- **Is the vessel a CTL ?**
- **Which policy pays?**