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## **Suez Drama: Legal Ramifications Will be Exponential, Lawyers Say**

The growing delay in refloating the stranded Ever Given vessel, already costing billions a day, increases the likelihood of legal claims that could take years to resolve.

By Peter Shaw-Smith | March 26, 2021



**Ever Given, Image: Vesselfinder.com**

Establishing the precise cause of the grounding of the *MV Ever Given* on the Suez Canal on Tuesday remains a key question facing an ever-growing list of parties to the incident, and is likely to have significant legal implications, potentially costing billions of dollars, international lawyers say.

Japanese vessel owner, ship-leasing firm Shoei Kisen KK, said Thursday it was facing 'extreme difficulty' in refloating the grounded vessel, in cooperation with the Suez Canal Authority, Denmark-based tug operator and Maersk subsidiary, Svitzer A/S, and other agencies.

"We are trying to take [it] off the reef in cooperation with the local authorities and the ship management company Bernhard Schulte Ship Management (BSM), but the situation is extremely difficult. We will continue ... to work toward an early resolution of the situation."

BSM, technical manager of the containership, said today it had intensified its efforts to re-float the vessel following the grounding incident on 23 March in the Suez Canal.

### **'Colossal claims'**

Mahmoud Abuwasel, managing partner, Wasel & Wasel, Abu Dhabi, told Law.com International affected charterers, traders and other parties needed to address their maritime insurance policies.

"[I]t is quite difficult for parties to navigate vis-a-vis their insurers," he said. "[News reports have] already mentioned that the ship's [Japanese] owner, ... and its insurers could face claims. But other owners, charterers, and traders who have been blocked or delayed have to consider their own insurance rights, and take action on those rights and policies."

George S. Kuruvilla, partner, Fotis International Law Firm, Dubai, said it was evident that all parties directly affected would have legal claims, including owners of the cargo aboard the vessel, and owners of other ships (and their cargo) directly affected by the accident.

"I expect numerous lawsuits with colossal claims to be filed in the [near] future due to this mishap. [A]ffected parties are still ascertaining the extent of losses that they are incurring or may incur."

### **The blame game**

Raymond Kisswany, partner at Davidson & Co., Dubai, said the *Ever Given's* owners were unlikely to succeed in bringing a case against the Suez Canal Authority which attempted to fault pilots involved.

"[I]t will be interesting to see how far the *Ever Given* could rely on the defence of pilot error rather than a recourse of its own," he said.

Marine cargo lawyer Ian Woods of Clyde & Co said the possible scope of liability could be massive.

"In relation to these containership casualties, there's the potential of 20,000 containers on board. Each container conceivably could have a different cargo owner, cargo insurer, and cargo interest, and all the contracts for the carriage of the goods on board the vessel could be subject to many different laws and jurisdictions.

"You could theoretically have up to 20,000 separate claims arising out of this incident, heard in many different jurisdictions around the world and the scope for many different law firms in different countries to be involved and instructed, once these claims have worked their way up and down the contractual chains involved. They're quite complicated in that respect."

### **'Many, many years'**

Casualties of this nature can sometimes take years to resolve, with so many interests involved, Woods said. "For example, the *MOL Comfort*, which sank in 2013, had only 4,000 containers on board.

"There were issues relating to the build quality of the ship, and various different container claims. That has only really just been resolved in the Japanese courts recently. We're looking five, six years, seven years down the line. Some of these claims could go on for many, many years yet."

Woods adds that "the sooner they [get the vessel moving], the less likelihood there is of particularly wide-ranging ramifications".

"Clearly, the longer it goes on, the more scope for legal implications there's going to be."