

The MALS Team mission is to provide Endeavor's Expert Advisory Group global expertise in Commercial Mediation and Arbitration as well as other legal support services, which might be needed by our clients utilizing our oil and gas Advisors.



ENDEAVOR MANAGEMENT
EXPERT ADVISORY GROUP

Mediation / Arbitration and Legal Support Team

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Endeavor

Mediation / Arbitration and Legal Support Team

The MALS Team mission is to provide Endeavor's Expert Advisory Group (EAG) global expertise in Commercial Mediation and Arbitration as well as other legal support services, which might be needed by our clients utilizing our oil and gas Advisors.

Our Mediation/Arbitration and Legal Support (MALS) team focuses on providing Clients with our expertise in Mediation and Arbitration processes, as well as expert witness and forensic-related assessments. Our Expert Advisory Group has completed a number of projects related to Legal Support and a number of our Advisors have participated in and have training in Commercial Mediation and Arbitration processes. EAG Advisor capabilities include developing summary reports



for legal cases, acting as an expert witness representing one side of a mediation /arbitration case, or as Mediators and/or Arbitrators. In addition, several EAG Advisors have extensive experience in forensic engineering-related assessments, such as Root Cause of Failure Analyses (RCFA). The MALS Team can provide the following expertise to Clients.

Potential MALS Team Roles

Commercial Mediator –
with focus on international and domestic Oil & Gas, Marine and Offshore.

Commercial Arbitrator –
with focus on international and domestic Oil & Gas, Marine and Offshore.

Expert Witness –
supporting legal cases, including review of evidence presented in preparation for or during legal cases and testimony in courts.

Technical Consultant –
providing technical review/guidance in developing evidence supporting a Client's legal team. This role includes identification of key issues and preparing reports for expert witness testimony.

Forensic Assessment Advisor –
supporting forensic-related assessments, including RCFA and other assessments of failures and accidental events.

MALS Team Members

Current MALS Team members with examples of their respective past experiences related to the above roles include:



Mediation

James Harris

- International and domestic Oil and Gas Lawyer.
- Mediator for a multi-million-dollar international oil and gas dispute between a foreign government and a Middle Eastern-owned E&P company.
- Oil and Gas transaction lawyer and commercial negotiator.



Arbitration

Malcolm Sharples

- Expert Witness in a London arbitration case over the delay of shipyard delivery of a semisubmersible due to mooring failure in Typhoon Vera.
- Expert Witness in an arbitration on damage to legs of a new jack-up as a result of dry transport from Singapore to Sri Lanka.
- Expert Witness in arbitration of damage to a jack-up offshore India where damage - because of the delay in recovery from minor damage - escalated to a total loss: it was necessary to determine when one policy terminated and the other took effect.
- Expert Witness in Australian arbitration case related to a semisubmersible's fitness for purpose to operate.
- Expert Witness in London arbitration case on whether Vortex-Induced-Vibrations (VIV) should have been foreseen by the owner of a jack-up rig operating in very high (8 knot) currents.
- Expert in arbitration case as to whether a delay in sale delivery to a new owner of a jack-up in Egypt was a Class required repair.

James Harris

- Nominated for consideration as Arbitrator for an Oil and Gas dispute between a West African Government and international E&P company.

Mark Danaczko

- Completed the University of Houston Law Center's Commercial Arbitration (Domestic and International) Course.
- Member of the Houston Maritime Arbitrators Association (HMAA).
- Completed the HMAA Training for Maritime Arbitrators.



Expert Witness

Malcolm Sharples

- Expert Witness for the failure of a mat-supported jack-up MODU with multiple deaths.
- Expert Witness for the collision of a tanker and freighter off Galveston, Texas.
- Expert Witness for the leg footing failure of a small jack up MODU.
- Expert Witness for the collision of a ship and barges in the Houston Ship Channel.
- Expert Witness for the collision of a tanker and a shrimp boat.
- Expert Witness for the failure of an SALM fluid swivel offshore Africa.
- Expert Witness for the premature launch of a barge under construction.
- Expert Witness for several foundation failures of jack-up MODUs.
- Expert Witness for the damage to the underside of a supply boat during a voyage.
- Expert Witness in a Shipyard dispute over construction costs and necessary modifications for a safe tow.
- Expert Witness in a case where a posted drill barge capsized due to lack of stability with 11 fatalities.
- Expert Witness in a case involving the best method of salvaging a ship that had grounded in Brazil.
- Expert Witness in the valuation of a rig at various stages of fire damage during a blowout in Mexico.
- Expert Witness for the suitability of a MODU to operate in West African when the contract was cancelled.
- Expert Witness on lift-boats damaged during collapse at site, and one where loading of 3 liftboats onto a dry transportation barge resulted in the capsizing of the barge.
- Expert Witness in a Canadian Legal Case where a shipyard was seeking compensation for not winning the contract when the contract was given inappropriately to a competitor.
- Coordinator of Experts in a legal case involving a lease dispute in Lancaster Sound as to whether it was a viable lease when the Operator returned the lease to government without shareholders participation.
- Multiple Expert Witness Reports on lawsuits arising from Gulf of Mexico (GoM) Hurricanes Juan, Andrew, Katrina, Rita, and Ike, including jack-ups, pipelines, and semisubmersible moorings.
- Expert Witness in dispute with Underwriters over a jack-up rig transiting Mexico to GoM: two incidents were linked leading to a separate deductible.
- Expert Witness in Arbitration on value and profit margin of platform constructed and installed in Ecuador.
- Expert Witness in a Fixed Platform case on collision design and Responsibility of Class Society and Shipyard.

Expert Witness (continued)

Andy Wolford

- Expert Witness for a Tanker company that had an accident where toxic materials were released from intermodal containers within hull cargo spaces. A lawsuit was filed by first responders who were exposed during emergency response activities.
- Prepared as Expert Witness for Coke Fallout accident that caused serious injury to a plant operator at a US Refinery. Root causes of the accident included process safety nonconformities, design deficiencies, and unsafe operational practices. The case did not go to trial.

Bruce Crager

- Nominated to be an Expert Witness in support of a Gulf of Mexico Operator in a dispute with another Operator regarding technical and cost issues related to a subsea tieback. Case was resolved without going to court.

Tim Swenk

- Provided 16 months of expert witness services related to Engineering standard of care, engineering systems and project execution issues as part of legal team for an international EPC defending a claim from owner related to a \$2.5B specialty chemical project. Prepared an Expert Report for the arbitration case. The case was settled just prior to the scheduled arbitration hearing.
- Coordinated expert witness selection for delay claim case defending an E&P company against claims from the project EPC services provider.

Mark Danaczko

- Conducted a detailed technical review of the Shipbuilding Contract, Technical Specification, and prepared an Expert Report for an arbitration case involving the unilateral

cancellation by the drilling contractor of a construction contract with the shipyard for the delivery of a new-built semisubmersible MODU. The case was settled prior to the scheduled arbitration case hearing.

Dave Edwards

- Nominated to be an Expert Witness in support of a large Engineering Company in a dispute with its EPC client regarding cost and schedule overruns on a lump sum, detailed design contract for a deepwater floating system. Dispute was principally related to the quality of the FEED provided to the Engineering Company. Case was resolved without going to the formal arbitration panel.

Jeff Hocke

- Expert Witness in an Arbitration case involving an EPC claim.

Mark A. Childers

- Provided Expert Witness depositions and/or testified in over a dozen cases, including a number of depositions in the last 10 years, including:
 - Expert Witness for two cases involving nonperformance under a drilling contract as claimed by operator for a deepwater MODU in the Gulf of Mexico.
 - Expert Witness for a case involving a Gulf of Mexico blowout on a platform rig in which underwriters claimed failure of well control equipment.
 - Expert Witness for a case involving the lack of performance by a contract drilling engineering firm for turnkey drilling of a well in West Africa from a DP MODU that was taken out of dead stack condition and reconditioned.

Expert Witness (continued)

J. R. Ric Massie

- An expert in project risk management in upstream, midstream and downstream processing projects. His broad industry knowledge and experience has been applied to forensic analysis of industrial processes and project performance in support of expert witnesses in several cases involving in the industrial arena.

Jeff Dice, PE, PMP

- Expert witness and strategic consultant for an Oil & Gas Development/Fabrication legal dispute.

Mark Hood

- Experience in legal dispute matters related to supply chain as a consultive and testifying expert.



Technical Consultant

Malcolm Sharples

- Wrote several Technical Reports on Process Safety required for a Consent Decree with DOJ, USCG, EPA, DOI, and BSEE examining Drilling Contractor practices after Deepwater Horizon to assure government requirements to provide Best Practice in procedures, training, maintenance, regulatory compliance and onboard culture of crews.

- Wrote several Technical Reports to MMS (now BSEE) on cause of damage and results for multiple hurricanes and impact on the industry, putting into context the failures of the fleet of MODUs.
- Wrote several Technical Reports to BSEE on worldwide damages reported on wind farms to determine suitability of the then IEC requirements for design and load cases.
- Organized a conference on BSEE CVA activities appropriate for offshore wind farms and derived a suitable safety case template for offshore wind farms. A further report was provided on issues for Cables for offshore wind farms. Reports are publicly available on the BSEE website.

Mark Danaczko

- Marine Advisor on the Oil Spill Litigation Team. Responsibilities included (1) conducting an internal analysis of the sequence of events leading to the tanker's grounding, and (2) an internal assessment of the volume of oil spilled for two equivalent double-bottom tanker designs (similar to the single-bottom tanker that grounded) given the same sequence of events.
- Coordinated independent technical assessments of (1) the sequence of events leading to the tanker grounding, and (2) an assessment of the volume of oil spilled from an equivalent double-bottom tanker design, that were being conducted by two expert witnesses.

Jeff Hocke

- Provided EPC contract analysis and dispute resolution on various multi-million-dollar EPC claims.
- Investigated and researched complete project document set for exhibits and case arguments; enhanced by understanding of the systems, technicalities, legalities and communications.
- Provided complete contractual analyses and adherence investigations, including change order analysis, equipment delivery and specifications issues, warranty and performance.
- Led the commercial/technical team for an AAA arbitration in EPC claim.

Andy Wolford

- Provided technical support for arbitrage of insurance rates for an oil and gas major in Lloyds marketplace for global hazardous operations.
- Investigation under attorney-client privilege to determine root causes of repeated loss of containment events on an offshore platform.

Bruce Crager

- Provided technical support to an Operator in a mediation regarding EPC construction of an FPSO vessel.

Mark A. Childers

- Provided an analysis of an inland barge value in a personal injury case.
- Provided an analysis of the validity of a drilling contractor's "dual activity" tubular pipe handling patents for three different clients.
- Provided an analysis of a marine riser tensioner wire rope failure on production riser.
- Conducted a review of patent validity for a closed loop mud system.
- Provided an analysis of two cases involving non-performance under a drilling contract as claimed by an operator for a deepwater MODU in the Gulf of Mexico.

Craig Watel

- Technical advisor and expert witness on MTBE groundwater and benzene contamination cases.
- Subject matter expert on refined product terminalling and throughput contracting and optimization.



Forensic Assessment Advisor

Mark Danaczko

- Participated in the Fact-Finding Team assessment of the inclining of a semisubmersible Floating Production Unit (FPU) in the Gulf of Mexico.
- Led the Root Cause Failure Analysis (RCFA) of a North Sea FPSO Mooring Chain Failure.
- Led the RCFA on a West Africa CALM Oil Offloading Hose Failure.
- Led the RCFA on the tendon flooding of a West Africa Tension Leg Platform (TLP).

Andy Wolford

- Performed detailed root cause analysis of an explosion at a batch chemical process facility, which was part of a lawsuit involving two fatalities.
- Performed dispersion analysis of flammable vapor that could be released from damaged cargo tanks of a tanker during a 39-day post incident response that involved eight nations' responsibilities to provide a port of refuge to ships in distress. The International Maritime Organization and the ABS called for new international rules to allow ships in need to find a safe berth. IMO resolved to take up the issue as a 'matter of priority.'
- Conducted an investigation under attorney-client privilege to determine the root causes of repeated loss of containment events on an offshore platform.

Peter Noble

- Provided technical support to Canadian Department of Transport on investigations into ice damage to ships and steering gears.

Mark A. Childers

- Provided an analysis of a cold stacked semisubmersible on the ocean bottom with anchors deployed which moved during a hurricane and its anchors broke a 20-inch pipeline.
- Provided an analysis of why a platform rig skidded off a spar into the ocean during a hurricane.
- Conducted an in-depth analysis of Macondo blowout from a subsea equipment design, operating procedure and MODU standpoint including onsite inspection of the BOP and subsea equipment resulting in a detailed report.
- Conducted a detailed analysis and review of equipment and reports on why a wellhead connector would not release on a subsea wellhead.
- Provided an analysis as to why a Gulf of Mexico blowout occurred from a jackup MODU in which underwriters claimed failure of well control equipment.

Endeavor Case Studies

- Operator dispute with a midstream pipeline company related to gas sales as well as future operations - EAG provided 4 Technical Advisors to review issues related to produced gas for ongoing platform operations as well as weight control on a floating production system. Bruce Crager was nominated as the Expert Witness, but the dispute was resolved without mediation.
- National Oil Company dispute with shipyard related to completion of an FPSO - EAG provided 3 technical advisors to review construction reports and support the Operator in regard to forensic review related to why the FPSO delivery was delayed. Total value of the claims exceeded \$500 million.
- Engineering Company dispute with EPC client related to cost and schedule overruns on the detailed design contract for a deepwater floating production system. Dispute centered on the quality of the FEED provided to the Engineering Company. Case was resolved without going to the formal arbitration panel.
- Fabrication facility arbitration dispute in Malaysia related to an offshore Oil and Gas topsides project for an FPS where one of the major valve suppliers furnished many valves which were, after the facility was in operation, contended to be fraudulent.
- Multinational specialty Chemical Company dispute with major EPC Contractor related to meeting reimbursable contractual performance parameters, implied standard of work quality and desired approach to management of work on a US-based grassroots project >\$2billion. EAG provided a Project Management Advisor to the highly regarded legal team for the EPC Contractor as an expert witness for the expert report and case strategy. The case was settled just before the arbitration hearing.

