

7.0 Introductory Comment

These instructions are for use in an action for negligence under the Jones Act, 46 U.S.C.

§ 30104, and under the general maritime law for unseaworthiness and for maintenance and cure. A plaintiff must be a “seaman” to recover under any of these theories, and therefore Instruction 7.1 is a threshold instruction on seaman status. Instructions 7.2-7.4 pertain to Jones Act negligence claims, Instructions 7.5-7.7 pertain to claims under the doctrine of unseaworthiness, Instructions 7.8-7.10 pertain to damages under both Jones Act negligence and unseaworthiness, and Instructions 7.11 and 7.12 pertain to claims and damages under the doctrine of maintenance and cure. While a right to trial by jury does not attach to claims for unseaworthiness or maintenance and cure standing alone, as those claims sound in admiralty, a jury may determine those claims when brought in conjunction with a Jones Act negligence claim at law to which a right to trial by jury is permitted. 1 Thomas J. Schoenbaum, *Admiralty and Maritime Law* § 6-25 (5th Ed. 2012).

Definitions of “crew member,” “vessel,” “in the course of employment,” and “in the service of the vessel” are not included because of the infinite variety of situations that arise. For assistance in dealing with these terms, it is preferable to refer to cases with fact patterns similar to the case under consideration. *See, e.g., Stewart v. Dutra Constr. Co.*, 543 U.S. 481, 489-97 (2005) (discussing “vessel” under Longshore and Harbor Workers’ Compensation Act); *Chandris, Inc. v. Latsis*, 515 U.S. 347 (1995) (discussing “crew member,” and “vessel”); *Martinez v. Signature Seafoods Inc.*, 303 F.3d 1132, 1135-37 (9th Cir. 2002) (discussing “vessel in navigation”).