Foreword
By David B. Sharpe

The book you are holding is the result of countless hours of unbillable time unselfishly donated by members of the Admiralty and Maritime Law Committee (AMLC) of the Tort Trial and Insurance Practice Section (TIPS) within the American Bar Association (ABA), some of the top lawyers practicing admiralty and maritime law in the United States today.

This book updates the initial edition, published in March 1984, by what was then known as the ABA’s Standing Committee on Admiralty and Maritime Law. Sadly, the original edition is now out of print. Then, as now, the contributors were top practitioners. Indeed, two contributors to the original edition are now prominent federal judges.²

Why this update after thirty-five years? It may surprise nonmaritime lawyers how much the law of damages recoverable in maritime matters remains in flux. The contributors to this edition have updated the case law for each topic and additional areas of maritime law have been included,

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² The Hon. Eldon E. Fallon, now a US District Judge for the Eastern District of Louisiana, contributed “Personal Injury Damages Obtainable in Jones Act and/or General Maritime Law Claims” to the original edition. The Hon. Edith Brown Clement, now a Circuit Judge for the US Court of Appeals for the Fifth Circuit, coauthored the original version of “Current Status of Defense to Reduce or Mitigate Damages in Jones Act, Longshoreman, and General Maritime Law Personal Injury Claims.”
expanding the book from eight to fifteen chapters, each one meticulously peer reviewed and edited by highly skilled members of the maritime bar throughout the United States. But questions in the development of maritime law remain. In the current Supreme Court term (October 2018 term), at least four cases were decided that involve the damages recoverable in maritime matters:

- **Air & Liquid Sys. Corp. v. DeVries**, 139 S. Ct. 986, No. 17-1104 (March 19, 2019) (maritime products-liability case involving asbestos; Justice Kavanaugh held that a product manufacturer has a duty to warn when [1] its product requires incorporation of a part; [2] the manufacturer knows or has reason to know that the integrated product is likely to be dangerous for its intended uses; and [3] the manufacturer has no reason to believe that the product’s users will realize that danger);

- **Thacker v. TVA**, 139 S. Ct. 1435, No. 17-1201 (April 29, 2019) (maritime-tort case involving recreational vessel allision with a TVA power line crossing a river; Justice Kagan held that under the limited statutory waiver of the TVA’s sovereign immunity, the TVA does not remain immune from all tort suits arising from performance of its discretionary functions; instead, the TVA is subject to suits challenging any of its commercial activities; in limited circumstances, the TVA may have immunity for governmental activities);

- **Parker Drilling Mgmt Servs v. Newton**, 139 S. Ct. 1881, No. 18-389 (June 10, 2019) (choice-of-law dispute involving the Outer Continental Shelf Lands Act [OCSLA]; Justice Thomas, for a unanimous Court, answered the narrow question of whether, under OCSLA, federal law addresses the minimum wage on the OCS: “It does. Therefore, the California minimum wage is not adopted as federal law and does not apply on the OCS.”); and

- **Dutra Group v. Batterton**, 139 S. Ct. 2275, No. 18-266 (June 24, 2019) (Justice Alito, for a 6-3 majority, ruled that a Jones Act seafarer may not recover punitive damages on a claim for unseaworthiness).

*DeVries* and *Batterton*, in particular, have the potential to shape the broader maritime law for decades to come. No doubt these cases will figure prominently in any future third edition of this publication.
To paraphrase and quote Sir David Steel’s3 foreword to Offshore Contracts & Liabilities (Informa Law 2015): You have here a book, ably and generously produced by members of the AMLC, which anyone in admiralty practice will need, “if only because the other side will probably have it already.”

3 Sir David Steel is an international commercial arbitrator based in London and a renowned former judge of the UK Admiralty and Commercial Courts.