**南京海事法院诉讼指南（海商海事纠纷案件立案篇）**

**一、船舶碰撞损害责任纠纷案件如何处理？**

1、当事人主体一般为船舶所有人或者光船承租人。

2、管辖：由碰撞发生地、碰撞船舶最先到达地、加害船舶被扣留地、被告住所地海事法院管辖。

3、起诉所需材料（其余材料与一般海事案件要求相同）：

（1）起诉状。起诉状应写明碰撞船舶信息、碰撞事故及后果、碰撞事故所致损害赔偿责任承担方式及计算依据的陈述等信息。

（2）相关证据材料。原告应提供证明如海事声明、海事事故报告等可以反映碰撞事故的证据材料及保险公估报告等可以反映损害结果的证据材料，还应提交船舶所有权证书、光船租赁登记证书等船舶信息证明材料。

**二、船员劳务合同纠纷案件如何处理？**

1、海事法院受理船员劳动（劳务）合同的范围：与船员登船、在船服务、离船派遣相关的报酬给付纠纷。

2、管辖：因海船的船员劳务合同纠纷提起的诉讼，由原告住所地、合同签订地、船员登船港或者离船港所在地、被告住所地海事法院管辖。

3、船员作为原告提起诉讼的，应提交个人身份证明材料（如户口本、身份证等）、船员身份证明（船员适任证书、船员服务簿等）及证明当事人之间存在劳务合同关系的证据材料。

**三、海上货物运输合同纠纷案件如何处理？**

1、管辖：由运输始发地、目的地、被告住所地及转运港所在地海事法院管辖。

2、起诉应提交的材料：证明当事人之间存在海上货物运输合同关系的证据材料（如提单、运单、运输合同等）、被告违约事实材料（如无单放货案件中货物在目的港已被人提取的证据）、因违约所致损失的证据材料（报关单、货损检验报告、运费发票等）。

3、集装箱超期使用费纠纷案件应明确被告的身份（托运人、收货人或者其他具有付款义务的主体）、原告主张的集装箱超期使用收费标准及涉案集装箱超期占用时间。

4、无单放货案件，正本提单持有人作为原告可以要求起诉承运人承担由此造成的民事责任。原告应提供货物在目的港已经被放行或者被提取的证明材料及其损失的证据材料。

**四、海上货运代理合同纠纷案件如何处理？**

1、管辖：合同约定履行地点的，以约定的履行地点为合同履行地（约定管辖不能违反级别管辖及专属管辖规定）。合同对履行地点没有约定或者约定不明确，争议标的为给付货币的，接收货币一方所在地为合同履行地；其他标的，履行义务一方所在地为合同履行地。合同没有实际履行，当事人双方住所地都不在合同约定的履行地的，由被告住所地法院管辖。

2、海上货运代理合同纠纷案件的范围：因提供订舱、报关、报检、报验、保险服务所发生的纠纷；因提供货物的包装、监装、监卸、集装箱装拆箱、分拨、中转服务所发生的纠纷；因缮制、交付有关单证、费用结算所发生的纠纷；因提供仓储、陆路运输服务所发生的纠纷；因处理其他海上货运代理事务所发生的纠纷。

3、货运代理企业作为原告起诉委托人主张货代费诉请的案件应提供证明双方之间委托关系存在的证据材料（托书、货运代理合同等）、原告已经履行合同义务的证据材料（提单、报关单等）及被告拖欠的货代费的证据材料。

**Key points for the filing of maritime disputes**

**I. How to deal with cases concerning disputes over liability for damage arising from collision of vessels?**

1. The subject is generally the owner of the ship or the charterer of the bareboat.

2. Jurisdiction: Jurisdiction by the maritime court of the places where the collision occurs, the collision ship first arrives, the injuring ship is detained, and the defendant resides.

3. Required materials of prosecution (the remaining materials are the same as those for general maritime cases):

(1) Complaint. The indictment shall include information such as the collision ship information, the collision accident and the consequences, the manner of liability for damages caused by the collision accident, and the statement of the calculation basis.

(2) Relevant evidence materials. The plaintiff shall provide evidence materials such as maritime declarations, maritime accident reports, etc., which may reflect the collision accidents. Insurance assessment reports reflecting the damage results and the ship information such as certifications of ownership and the bareboat charter registration shall also be submitted.

**II. How to deal with cases concerning disputes over contracts on employment of seamen and service contracts?**

1. The maritime court accepts the following scope of the contracts on employment of seamen and service contracts: disputes over payment of remunerations and compensation relating to seaman boarding, services on board, and repatriation upon disembarking.

2. Jurisdiction: The lawsuit brought by the seafarer’s crew labor contract dispute shall be under the jurisdiction of the maritime court of the places where the plaintiff resides, the contract is signed, the crew’s boarding port or the ship’s port is located, and the defendant resides.

3. If a crew files a lawsuit as the plaintiff, he/she shall submit personal identification materials (such as household registration card, ID card, etc.), crew identification (crew certification of competency, crew service book, etc.) and evidence of labor contractual relationship between the parties.

**Ⅲ. How to deal with cases of disputes over contracts of carriage of goods by sea?**

1. Jurisdiction: Such cases shall be under the jurisdiction of the maritime court at the place of: (1) departure of transportation or (2) destination of transportation or (3) domicile of the defendant or (4) port of re-transportation.

2. Materials to be filed to initiate such an action: (1) evidence on contract of carriage of goods by sea between the parties, such as bill of lading, waybill, affreightment contract, etc.; (2) evidence on facts of the defendant’s breach of contract, such as evidence on goods taken away at the port of destination in cases about delivery of goods without an original bill of lading; (3) evidence on losses resulted from defendant’s breach of contract, such as customs declaration, cargo damage inspection report, freight invoice, etc..

3. Plaintiff of a container demurrage case should: (1) identify the defendant as a shipper, consignee or other subjects with payment obligations, and (2) identify the container demurrage standard charged by the plaintiff and the overdue occupation time of the container involved.

4. In cases about delivery of goods without an original bill of lading, the holder of an original bill of lading shall, as the plaintiff, require the carrier to bear the civil liability arising therefrom. The plaintiff shall file the evidence on goods delivered or taken at the port of destination, and the losses resulted therefrom.

**Ⅳ. How to deal with cases of disputes over contracts of maritime freight forwarding?**

1. Jurisdiction: Where the parties have agreed on a place of performance in a contract, such a place of performance shall be the place where the contract is performed (jurisdiction agreements shall not violate the provisions of laws regarding hierarchical jurisdiction and exclusive jurisdiction). Where the parties fail to agree on or clearly agree on a place of performance in a contract, and the subject matter of dispute is the payment of money, the place where the recipient of money is located shall be the place where the contract is performed; for any other subject matter, the place of the party performing the agreed obligations shall be the place where the contract is performed. Where a contract is not actually performed, and the place of domicile of either party is not the place of performance as agreed on in the contract, the people’s court at the place of domicile of the defendant shall have the jurisdiction.

2. Disputes over contracts of maritime freight forwarding include disputes arising from: (1) the rendering of services, such as booking space, customs declaration, quarantine declaration, inspection declaration and insurance services; (2) the rendering of services, such as packaging, loading inspection, unloading inspection, container packing and unpacking, allocation and transshipping; (3) the making or delivery of documents or the settlement of expenses; (4) the rendering of storage and overland transport services; and (5) the handling of other marine freight forwarding affairs.

3. If a freight forwarding enterprise, as the plaintiff, brings an action against the consignor for payment of freight forwarding charges, such plaintiff should file evidence regarding: (1) the existence of entrustment relationship between the two parties (such as a booking order, a contract of freight forwarding); (2) the plaintiff has fulfilled the contractual obligation (such as a bill of lading, a custom declaration); (3) the defendant’s overdue of freight forwarding charges.