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- ◆ As the nation slowly recovers from last weeks' events and prepares for a somewhat uncertain future, our thoughts remain with the friends and family of those that were injured, missing, or lost as a result of this national tragedy. In the wake of the attacks, the U.S. Congress enacted an Emergency Supplemental Appropriation totaling \$40 billion for additional disaster assistance, anti-terrorism initiatives, and other purposes. \$10 billion is being made available immediately, with another \$10 billion available once the OMB provides Congress with a proposed allocation plan. The remaining \$20 billion will be allocated through supplemental legislation. Earlier this week, both the EPA and OSHA confirmed that the majority of air and dust samples monitored in the financial district do not contain excessive levels of asbestos. Only two samples of those collected contained asbestos, and debris samples taken outside buildings in the financial district showed between 2.1 and 3.3% asbestos concentrations – just above the 1% threshold used to define asbestos containing material. (Sources: *Maritime Items*, *Environmental Protection E-News*) ***Editor's Note: We have also been following the formation of the new cabinet position for Homeland Defense, and are closely monitoring its development with our Washington, DC contacts.***
- ◆ An interesting article appeared in a recent edition of *Lloyd's List* highlighting the recommendation of the Maritime & Port Authority of Singapore ("MPA") for an alternative to the International Tanker Owner's Pollution Federation ("ITOPF") in advising countries over oil spills. After disagreeing with the ITOPF over the strategy it took to address the spill resulting from the October 1997 collision of the *Evoikos* and *Orapin Global* in the Singapore Straits, it took the MPA four years to settle compensation claims arising from the incident. The MPA has also taken issue with the ITOPF over last year's *Natuna Sea*, spill, particularly over the use of chemical dispersants (MPA is still awaiting compensation for that incident). ITOPF's position was that their staff was advisory only, and that it was up to the Port Authority to decide the course of action. The MPA has stated that other expert advice would supplement the clean up methods, and that the ITOPF cannot be seen as a neutral party to give advice on oil spill clean up operations to those who suffer from the pollution damage. Some 90% of the ITOPF's income arises from subscriptions paid by the P&I Clubs, and the MPA says it's understandable that the ITOPF's focus is to protect the interests of the shipowners and insurers who are responsible to pay for the response and clean up effort. The MPA is suggesting that an independent body of experts not linked to payment of compensation be considered as an alternative to the ITOPF.

- ◆ After opposing a proposal to lift the sunken pieces of the *Erika* from the seabed, TotalFinaElf has been accused of trying to drag out investigations into the causes of the tanker disaster. For its part, TotalFinaElf has paid all costs associated with the investigation to date, and does not consider lifting the wreck a priority. Groups seeking compensation from the oil group for the costs incurred from the resulting pollution believe that TotalFinaElf no longer wants to move forward with the effort. It will be interesting to see how this situation progresses. (Source: *Lloyd's List*)

- ◆ The Federal Emergency Management Agency announced on September 17, 2001 that 224 fire departments across the U.S. would receive \$10.5 million in grants in the ninth round of awards under the Assistance to Firefighters Program. The funds are to be used to establish wellness and fitness programs for firefighting personnel; to buy firefighting equipment – including communications and monitoring gear; to buy personal protective equipment; and to fund fire prevention programs. Total assistance provided to date under this program is \$72.8 million. (Source: *FEMA Press Release*)

- ◆ Holland & Knight LLP's *Employment Law Letter* contained an article highlighting some significant labor and employment issues that will be considered by the Supreme Court. Some notes of interest include the following: (1.) The Equal Employment Opportunity Commission ("EEOC") is before the high court in a case that tests the effect of an arbitration agreement on the EEOC's power to bring suit. In the case, the EEOC sued an employer, after which the employer filed a motion for arbitration. The court ruled against the motion to compel arbitration, even though the job applicant had completed an application that included an arbitration clause. An appeals court subsequently ruled that the employer could not compel the EEOC to arbitrate, but that the arbitration agreement would limit the EEOC's judicial remedies to injunctive relief only (i.e., they could not obtain monetary relief in court). The Supreme Court will now consider the decision of the court of appeals. (2.) The Supreme Court has agreed to decide whether the Department of Labor went too far in its regulations that were issued in relation to the Family and Medical Leave Act ("FMLA"). According to the regulations, the employer must designate the FMLA leave and provide notice to the employee taking leave if the employer wants a leave of absence to count toward the 12-week FMLA entitlement. If the employer doesn't notify the employee, the leave of absence doesn't count toward the allowable FMLA leave. The Eighth Circuit has struck down these regulations as going beyond the Department of Labor's regulatory authority, as has the Eleventh Circuit.

- ◆ We all spend time gathering and analyzing customer feedback. In uncertain economic times, however, the time invested in these tasks becomes more valuable than ever to our respective companies. According to some research done at the Harvard Business School, listening to customers is especially crucial during economic transitions because that is when their tastes change. Pay special attention to signs that your customer needs are changing, and react quickly when a customer suddenly purchases other products or requests different services. This tact will help your company gain a competitive advantage, and help in riding out the ups and downs of a changing economy. (Source: *Quality Manager's Alert*)

- ◆ **Work/Life/Health:** It's usually the squeaky wheel that gets the grease – and the attention of a manager. However, managers need to be sure to pay attention to the employees that quietly go about their daily tasks – they also need motivation. Identify silent successes by asking yourself these questions: (1.) Who has near perfect attendance? (2.) Who consistently submits quality work on time? (3.) Whom can you depend upon to pick up a co-workers slack when needed? (4.) Who helps co-workers do their jobs better? (5.) Who makes a continuous effort to improve? (6.) Who works well – even when you're not around? Keep these employees motivated by praising them when the time is right, by taking a sincere interest in getting to know them, and by never taking advantage of them. A surefire way to demoralize these employees is to take work away from complaining employees and piling it on those that are quiet and dependable. (Source: *Manager's Legal Bulletin*)

- ◆ **Quote of the Week:** "To endure is greater than to dare; to tire out hostile fortune; to be daunted by no difficulty; to keep heart when all have lost it; to go through intrigue spotless; to forego even ambition when the end is gained – who can say this is not greatness?" – William Makepeace Thackeray (1811-1863), *The Virginians [1857-1859]*, ch. 4