

# Is There an Appropriate Limit to Reliance upon Captain and Engineers When Designing or Building a Superyacht and, If So, Upon What Professionals Should an Owner Rely?

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Back in the early 80's, starting out as an environmental lawyer, a client came into the office with a number of problems concerning a 173 foot yacht which has been built by British royalty and given to the Emperor of Indochina as a gift. With no one in the firm having any experience with maritime matters, it essentially came down to, "OK, Eric. Fish. Water. Boats. You've got the case!"

Well, that case involved conflicts with a repair yard, the unconstitutional arrest of the yacht, a project manager who was negligent and bilked the client of substantial funds... and the concept of cleaning up those fiascos so that the yacht could be transformed. In the twenty five plus years since I continue to see the same approaches and the same errors while the economics and sophistication of yachts have increased astronomically.

The reliance of Owners on little more than captains and engineers (and vendor's representations) with overly simplistic approaches to legal protections and performance standards, coupled with Shipyard's reliance upon those same vendors, is the root cause of many disputes especially since much of the technology and/or products are so new to the market that they are but prototypes.

As the superyacht market has now evolved far past the newest radar being the "toy" of note, it is imperative that more than all the appropriate disciplines be identified from the outset. Realistic expectations and performance standards must be established, and appropriate monitoring be put in place so that long and expensive delays (or resulting litigation) can be minimized if not eliminated.

Adding to that complexity is the ever changing regulatory schemes that are being put in place.

With projects on a three year waitlist it is more than conceivable that - with technology's speed at rates never before seen - by the time the yacht is nearing completion and new, more restrictive, schemes will be under development and, to be sure, technological advances to address them have become more than simply notes on the back of a piece of scrap paper.

And, as we know Owners desire the latest and greatest... regardless of when that technology comes online... and for it to work flawlessly... on delivery... which is to be on time nonetheless.

There is no question that a captain's experience is essential when planning a project and in making adjustments during the project, and an engineer's expertise is also not to be discounted, but no matter how much time a captain or engineer has spent at sea... and with a number of companies making their equipment anything but "user friendly" from the installation and maintenance side, how is it reasonable to rely upon these individuals... or to place the burden upon them? If we were in a court of law, sitting before a jury, we probably would look quite foolish... or at least naïve.

A typical example is the new electronics and the integration of them into a new superyacht. You need to think six (6) years down the road. But before you do that, think 10 years back (because technology is pushing advances at a higher rate). In 1997 most of the world did not think of:

- Wireless telephones being the norm, or
- WiFi being mandatory, or
- A GPS system that contains all of the United States and European street maps that is the size of a cigarette pack, with a 3 hours of power self-contained... and it is fully functional with Bluetooth (what is that?),

- A satellite communications system with streaming video that works worldwide... and is the size of a laptop (with a secure wireless network built in... of course).

Or, as a contrarian example, upon what basis can we have specifications based upon today's technologies for paint systems that most probably will not be permitted in 3-4 years' time and a concern within the paint industry that the high glosses that are prized today simply may not be achievable.

From where is a captain's or an engineer's experience going to have knowledge of such things? For that matter who is that that has that knowledge; knowledge of things that may not yet exist?

The fact is that a \$50,000,000+ project requires much more than that which has been 'the way it has always been done'... with the caveat that Project Managers are a relatively new concept; one that is still evolving as there are many different ideas of what a Project Manager is to do and literally no definition, no less regulation, over who can call himself one.

At present there are quite a number of former seafaring captains and engineers that now prefer the relative comforts and stability of land based employment. Usually they are ill equipped to effectively and efficiently handle the complexities of superyacht construction... in addition to the anticipated new technologies. Yes, to be sure there are a few out there that now have some good experience, but there are many more that as is said, simply "Hang a Sign: Open for Business" and actually have no business being in the superyacht construction management business.

So what is it that a Project Manager is supposed to be? In the first instance he is charged with orchestrating the Owner's various representatives, who primarily are:

I. The Naval Architect who wants structure (he is good with structure). Reference is made to Plan and Specifications... and if they are just followed as they are written it all will come out as it is supposed to.

II. The Designer who works with concepts (generally independent of the structure at the outset). Reference is made to a host of other things that are interesting, relevant and creative... but not really where the focus is "supposed" to be.

III. The Project Manager (me) who observes both and says,

"OK. How am I going to integrate these two different approaches while keeping both happy as the deadline nears and assure the product is top quality... knowing that the Owner and/or Yard actually have ideas of their own?!"

I think that we need to focus on a key word: "resolution". To me the way to resolve the inherently different approaches is to:

A. Sufficiently understand the different approaches, thought processes, knowledge and skill sets of each person.

B. Educate myself so that I can truly understand the desires and goals of each person.

C. Find appropriate ways to exploit those assets for the benefit of the project.

D. Communicate the desires and goals of the other people in sufficient amount, with the relevant content, and with appropriate timing to further the project without:

1. Losing or ignoring valuable information;

2. Angering or alienating anyone; or,

3. Failing to give proper weight to each person's desires and goals (a/k/a "The Balancing Act)

E. Establish an Action Plan that integrates with the 100's of other Action Plans involved in the construction project.

One area where "resolution" becomes critical is the written word. What does "X" mean? There may be a lay (or common) meaning, a technical meaning and a legal meaning. Now we all have been in discussions where someone says, "It obviously means "A", another says it means "B" and a third may not even care because he is more concerned with "Y" than "X". And then there is the multilingual issue... because certain words simply do not translate exactly.

This is why I think it is critical that any project manager be conversant not only with how a yacht operates and how certain construction techniques should be applied and how to address conflict resolution, but also how to successfully create documents so that when disputes arise there is little room for that conflict. In other words: Anticipate the conflicts and, through knowledge and experience, resolve it before the conflict actually occurs... or at least before it hits the shop floor.

This is especially important when his role becomes that of the primary interface with the Shipyard, where competing interests, high stakes finance and many other factors come into play.

We all must face the fact that if the conflict is not resolved quickly and efficiently, the most inefficient manner of resolution is brought in: The Lawyers. (And if there is dispute about how much knowledge and experience project managers must have, think about a lawyer - who may well rely almost exclusively on his experts - having to efficiently create a resolution. Yes, there are some very talented and experienced ones out there that bring more to the table, but it is a small pool.)

Another area is to make sure your time lines are ahead of everyone else's. It is essential to be "proactive" rather than "reactive". Through experience and by listening carefully to the various players there are hints as to problems that will arise.

- That newly designed entertainment center with waterfall graphics must go into that position and, therefore, the structure needs to be modified.
- That newly identified electronics item, which did not even exist three years ago, needs a dedicated line that is not in the Specifications and the cable runs are complete in that area.
- The lead time or budget for, or even the abilities to perform, a particular item is not realistic.

Some Project Managers consider themselves peacemakers or politicians. While those qualities are necessary, it makes me concerned as to whether the ultimate goal is to attain the best result for the Owner or a longer term relationship with a shipyard... who in turn recommends them for another project they are undertaking.

Some Project Managers are technicians who scour the Specifications and call out every variance regardless of whether the shipyard's product is actually an improvement... which in turn results in "OK. We will give you exactly what the Specification says and nothing more." and the Owner unwittingly feels he "wins" while a tremendous amount of practical knowledge and experience in building that better mousetrap is left on the shop floor.

Both the political and the technical talents are needed, along with the ability to read and accurately interpret and discuss documents that have legal effects... and, most importantly, to anticipate when, and how, these three concepts collide... blending a resolution rather than a conflict.

In conclusion, there is a wealth of knowledge which captains and engineers have and which must be utilized. However, it is for others to find the proper ways to utilize their talents; not for them to take the lead.

Most Owners want their superyachts "yesterday" and using "yesterday's" approach more than likely will cause (or avoid preventing) what seem to be omnipresent delays in delivery, blown-out budgets and avoidable construction defects.

It is past time for more sophisticated approaches which focus on the integration of talents and technologies to be utilized so that the Owners may enjoy the romance of the sea rather than being faced with the "perfect storm".