

(short intro of Theme Music):

ad4.2

(voice of John Hughes Cooper):

Good morning to Captain and crew alike. Welcome once again to The Admiralty Docket. This is John Hughes Cooper with a glimpse into your rights and responsibilities at sea and upon the navigable waters.

Today our subject is introduction to maritime liens.

On land, a creditor may hold a security interest in the property of a contract debtor to assure repayment of the debt. Such a security interest may be called a lien, and its validity and priority depend upon the creditor's possession of the property or upon the creditor's proper recording of public notice of the lien with governmental authorities.

However, maritime liens can arise as a matter of law against vessels in navigation without the creditor's possession, without any requirement for perfection, without public or private notice, and without any writing. For instance, when dockage, fuel, repairs, supplies, or necessities are provided to a vessel upon the order of her owner, captain, or other authorized person, a preferred maritime lien arises as a matter of law against the vessel in the amount of the reasonable value of such necessities. Maritime liens are extinguished by payment of the debt, by complete destruction of the vessel and her appurtenances down to the last plank, or by a U. S. Marshal's sale of the vessel free and clear of all liens and encumbrances, pursuant to Rule C of the Supplemental Admiralty Rules. This is effective only after the Marshal's sale is confirmed by the U. S. District Court sitting in admiralty.

A preferred maritime lien arises when necessities are supplied to container ships, tugs, sailing vessels, outboards, jetskis, or canoes, upon the order of an authorized person. Since there is no requirement of recording most maritime liens, these secret liens can encumber vessels of any size. This can be a real problem for vessel owners, lending institutions, and purchasers of vessels. This is where competent admiralty counsel can be of assistance.

On land, the law protects innocent third party purchasers for value without notice of landside liens. But, maritime liens give more protection to the maritime creditor. Maritime liens are enforced against even innocent third parties without notice.

Priority among competing landside liens is generally determined by the time when they attach or become perfected: first in time is first in right. Not so with maritime liens, the priority of which is determined by class and within a class by the time when they attach: but with maritime liens the time rules are reversed: last in time is first in right.

In addition to the liens for necessities provided to vessels, maritime liens arise as a matter of law to encumber vessels for wages owed crewmembers, for salvage services received, for fault in a collision, for personal injury or property damage, for towage, for preferred ship mortgages, for duties owed by a vessel to her cargo, and for bottomry and respondentia.

More next week on The Admiralty Docket. Until then, remember your rights and responsibilities may change as you approach the shore and may God Almighty grant you pleasant sailing.

(second voice with muted theme music):

The Admiralty Docket is written and narrated by John Hughes Cooper who specializes in admiralty law litigation with the law firm of Cooper & Raley and who is a Proctor member of the Maritime Law Association of the United States. The legal principles discussed are general in nature and necessarily based upon commonly occurring factual circumstances. Laws change and even similar facts or circumstances may call for application of different laws leading to different results. If you become involved in a dispute governed by admiralty law, seek competent legal advice. If you have a question about Admiralty Law for a future edition of The Admiralty Docket please write to John Hughes Cooper at Post Office Box 1248, Charleston 29402.