

R/T 3:08

(intro Son of a Son of a Sailor):

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(voice of John Hughes Cooper):

Good morning to Captain and crew alike and welcome 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 sailors and seamen: wards of the admiralty court.

Members of a crew employed upon a vessel are called seamen, regardless of the size of the vessel or the duties of employment. Many workers, far removed from the traditional work of seamen, are classified as seamen under the admiralty law. Even bartenders, beauticians, musicians, and palm readers have all been found to be seamen, when employed aboard a cruise ship.

Seamen are protected as wards of the admiralty courts. Judges are extremely liberal in the application of laws to protect them. The reasons for the protection of seamen are related to the dangers and hardships traditionally faced by seamen in their jobs and to the benefits of seamen's work to maritime commerce and to national defense.

As Judge Biggs stated in the case of Jones v. Waterman Steamship Corp. "the relationship of the shipowner to the seaman is more closely analogous to that of father and child than to that of an employer to a mere employee."

Seamen are commonly described by the admiralty courts as "poor and friendless and apt to acquire habits of gross indulgence, carelessness and improvidence." Time and again seamen are able to

live up to the full measure of this description.

The seaman who falls ill or who is injured while under articles or subject to the call of duty is entitled to maintenance and cure. The vessel herself and her owner are liable for the payment of maintenance and cure without any regard to fault.

The very same conduct by landlubbers which is condemned as "assault and battery of a high and aggravated nature" if committed by a seaman becomes "only horseplay." A seaman's negligence, drunkenness, fighting, or horseplay are routinely overlooked with appropriate remarks about "the classic predisposition of sailors ashore." One Court awarded maintenance and cure to a seaman on shore leave in Yugoslavia who suffered a broken leg in jumping from the second story window of a brothel following a dispute over financial arrangements. Only willful misconduct of the seaman will forfeit his rights to maintenance and cure.

A seaman is entitled to wages up to the end of the voyage or to the end of his articles, even though unable to work. If his injury results from an unseaworthy condition of a vessel, he has a right of action for liability without fault against the vessel and her owner under the general maritime law. If his injury results from negligence of his employer, the seaman has a right of action against his employer under the Jones Act. In such an action, the employer will be held fully responsible if its negligence, howsoever slight, contributed to the cause of the seaman's injury.

The shipowner may even be held responsible for maintenance and cure for a preexisting illness, so long as the the sailor did not

knowingly conceal his condition at the time of employment. In avoiding any finding of knowing concealment, the Courts have endowed seamen with what has come to be called "an invincible ignorance."

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 Send Lawyers, Guns and Money):

The Admiralty Docket is written and narrated by John Hughes Cooper who specializes in admiralty law litigation with the law firm of Cooper & Raley. The legal principles discussed are general in nature. Laws change and even similar circumstances may call for application of different laws. If you have a question for a future edition of The Admiralty Docket please write to John Hughes Cooper at P. O. Box 1248, Charleston 29402.