

6-19-93

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(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 the duty of vessel owners to teach the crew to swim.

Does the owner of a vessel have a legal obligation to teach the crew to swim? Should the owner be responsible if a non swimmer drowns? If the vessel owner knows that the crew cannot swim, should the owner require non swimmers to wear personal floatation devices or "pfd"s at all times? What about good swimmers? or poor swimmers? or strong swimmers in rough seas? or poor swimmers in calm seas? Should the non swimmer who is provided a proper pfd and trained in its proper use, be responsible for his own safety?

This brings us to the case of the NORTHUMBERLAND. On the evening of October 3, 1989, the seas were calm and the F/V NORTHUMBERLAND with a crew of 14 was fishing for menhaden in the Gulf of Mexico. Shortly before 6:00 p.m. the NORTHUMBERLAND struck a 16 inch natural gas pipeline. Although the pipeline was required to be buried three feet below the bottom, it had become exposed. Within seconds after the vessel punctured the pipeline, a huge cloud of natural gas ignited, there was an explosion, and the NORTHUMBERLAND was engulfed in flames. Of the 14 persons aboard, eleven died; two in the explosion and fire, and nine by drowning.

The three surviving crewmembers, and representatives of the

deceased crewmembers filed claims exceeding \$140 million. During a three week trial, the owners of the vessel proved that negligence of the pipeline owners was the cause of the collision, explosion and fire. The vessel owners further proved that the NORTHUMBERLAND met or exceeded all Coast Guard requirements for safety training and equipment. Safety drills were conducted to teach emergency procedures, and crewmembers were instructed as to the use of safety equipment on board. Each crewmember had a pfd, and additional pfds were located on deck and in the pilot house.

None of the drowned crewmembers had been able to swim and the owners knew this. Attorneys for representatives of the drowned crewmembers argued that the owners of the NORTHUMBERLAND had a duty to teach the nonswimmers to swim or a duty to require crewmembers to wear pfds at all times while on the NORTHUMBERLAND.

Although the owners required all crewmembers to wear pfds while crossing back and forth from the NORTHUMBERLAND to the purse boats and while aboard the purse boats, the owners did not require crewmembers to wear pfds on the NORTHUMBERLAND.

Of course, each non swimmer in the crew knew that he was unable to swim, each was issued a proper pfd, and could have worn it at all times had he thought it prudent. Each was trained in proper use of the safety equipment, including the pfds, and each knew that extra pfds were available for his use. Each non swimmer knew that, if something happend to the boat, he would not be able to breathe under water. Each made the decision to forego wearing his pfd at the time of the disaster.

The admiralty court found that the owners had taken all reasonable precautions to safeguard the crew and declined to require the owners to teach crewmembers to swim or to require the wearing of flotation devices at all times.

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.