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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 liability for wake damage.

Damage caused by the speed and motion of a vessel through the water is called wake damage. A vessel causing injury to others by her swell or wake is held responsible for any failure to appreciate the reasonable effect of her own speed and motion through the water at the particular place and under the particular circumstances where the injury occurred. Her officers are required to take all reasonable precautions to avoid injury to another vessel, including crew or passengers. All reasonable precautions must be taken even though past experience has shown that in the ordinary and usual course of events they are likely to escape injury.

Even when a larger vessel is proceeding on her ordinary course and at her customary speed, the admiralty law requires that all reasonable precautions must be taken. Smaller craft have the right to assume that larger craft aware of their presence will observe reasonable precautions and smaller craft are under no duty to warn the larger vessel of the danger.

A ship passing piers or docks where other vessels are tied up is obligated to proceed carefully and prudently so as to avoid creating unusual swells or suction which would damage craft properly moored or installations along the shoreline. The moving

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vessel must take into consideration the reasonable effect to be anticipated from her speed and motion through the water and must take such precautions by way of reduction of speed or alteration of course as may be necessary to prevent such damage.

On the other hand piers and docks along the shoreline are required to be kept in proper condition and vessels tied up there must be seaworthy and properly moored so as to resist ordinary and normal swells, even in narrow waters where heavy traffic may be anticipated. Some wash from passing vessels is bound to occur and must be anticipated and guarded against. Only unusual swells or suction which cannot be reasonably anticipated furnish the basis for a claim.

Once the owners of the wake damaged vessel prove that swells or suction caused the damage, that the damaged vessel was properly moored to resist ordinary swells or suction, and that the offending swells or suction came from the passing vessel, then, to avoid liability under the admiralty law, the passing vessel must show that she was powerless to prevent the injury by any practical precautions she could have adopted.

The fact of damage from swells or wake establishes a prima facie liability of the vessel creating the swells or wake.

The need for a large vessel to travel at a speed sufficient to avoid running aground or losing steerage, must be weighed against the danger of wake damage to other vessels or property. A large vessel may have the duty to proceed below steerage way, relying on tugs to provide steerage, if danger of damage to other vessels or

property is reasonably foreseeable.

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.