

50211 3 2 1 Today we start with a question from Thomas over in Colleton County, "I own a dock down on the the river which was damaged when a tug and barge crashed into it in 1993. I am claiming for the repairs, but the insurance company for the tug has delayed for 2 years already. Can I get interest on the repair cost?"

Good question, Thomas. Assuming the allision occured on navigable waters, your claim is within the admiralty tort jurisdiction of the U. S. District Court. Because it is within the admiralty jurisdiction, substantive admiralty law will apply whether you file suit in state court or federal court. Under admiralty law, pre-judgment interest is recoverable in addition to repair costs, absent unusual circumstances.

Thomas asks further. "Also, can I claim for loss of my business profits during the three weeks my wholesale fish and shrimp business was shut down because of the damage?"

Yes, Thomas you can, if you can prove your loss of profits. Under the admiralty law, you have a recoverable claim for loss of business profits if your property sustained physical damage by a vessel in navigation and your business suffered a loss of profits because of the physical damage.

Nancy writes from Charleston, "Dear Mr. Cooper, I don't even own a boat, but a question has occurred to me. Can't the winning party to a lawsuit collect attorneys' fees from the other side?"

Insightful question, Nancy. Under English law, the prevailing party is awarded his attorneys' fees, which must be paid by the losing party. This is part of the reason that the courts of England are primarily for big companies or for the rich. Most cases are

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debatable. The common man in England who is wrongfully damaged by a big company under circumstances where responsibility is debatable is truly caught between Scilla and Charibdis. If he sues and loses, he may lose his home and all he has, after paying his attorneys and a damage award to the company, he will have to pay the huge attorneys' fees bill of the company solicitors. The common man cannot take the chance, even if he is probably right.

Under the American rule, the prevailing party is not entitled to attorneys' fees unless an agreement or statute so provides. There are usually two sides to every dispute, and our law on attorneys' fees recognizes that fact. Our courts are still open to the common man. Although our system is not perfect, I believe that our system of civil justice is the best yet devised.

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. 50211

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