

50311 3 2 1 Donald writes from Wampee, "Dear Mr. Cooper, due to a collision, we have been unable to use our pleasure boat for some months now while it is undergoing repairs at the boatyard. We have been without the use of a boat, but our expenses have continued uninterrupted. Since the other boat was at fault in the collision, can we collect for loss of use of our boat during repairs?"

Good question, Donald. Under the general maritime law, compensatory damages are not recoverable by a vessel owner for loss of personal pleasure use of his boat, but compensatory damages are recoverable for provable loss of revenues. So, to the extent a pleasure vessel is used to generate revenues which can be proved with some degree of certainty, it will fall outside the rule and will support compensatory damages for loss of use. Of course this is just another way of saying that a vessel becomes "commercial" to the extent to which she generates provable revenues for her owner. It is worth noting that detailed income and expense records and proof of opportunity for hire during the repair period are normally required.

Wanda writes from Nesmith, "Dear Mr. Cooper, my boys love to go to the Black River and swim and dive. Well wouldn't you know. They started findin' parts of old bottles on the bottom of the river. Then they began to find broken pottery and one day a silver soup ladel. Next thing they found several whole whiskey bottles, part of a musket, and then the hull of a sunken river boat. Some say from the time of the Royal Government. Can you confirm that this schooner and her cargo are covered by the law of salvage?"

The short answer is no. By the Abandoned Shipwreck Act of

1987, Congress transferred title to such abandoned shipwrecks to the state on whose lands such shipwrecks are located. The law of salvage and the law of finds do not apply to shipwrecks covered by the Act, and the U.S. District Courts are divested of admiralty jurisdiction over claims to covered shipwrecks and jurisdiction over such claims is vested in state courts. The South Carolina Underwater Antiquities Act provides for the management of submerged historic property and artifacts in state territorial waters or submerged lands, including abandoned shipwrecks, and provides for The South Carolina Institute of Archaeology and Anthropology to act as custodian of such property.

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. 50311

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