

50408 3 2 1 Tyler writes from Charleston County, "Dear Mr. Cooper, if a channel buoy breaks away and afterward an oil tanker runs aground causing an oil spill because of the missing buoy, who would bear the legal responsibility?"

Good question, Tyler. Under normal circumstances the ship and her owners and operators would be expected to navigate the channel without running aground even if one or more channel buoys drift off station. The first inquiry can be expected to center on determining the cause of the casualty. Was the grounding caused by the missing buoy or was it caused by the inattention or negligence of those operating the vessel?

Tyler inquires further. "If the cause of the casualty was the missing buoy, would the government be responsible?"

Another good question, Tyler. Generally, the government has no responsibility to mark channels. However, once the government undertakes the job of marking a channel, it must use reasonable care in carrying out that function. Therefore, if the government marked the channel and if the government knew that vessels relied upon the buoy when transiting the area, and if the government knew that the buoy was missing, then the government has a legal duty under the general maritime law to use reasonable care to replace the marker or to warn mariners of the missing buoy. If the government breaches its duty and that breach causes the casualty, then the government will be held liable for its negligence.

Daniel asks, "If the Coast Guard knew for a long time that its marker buoy was missing and published a notice to mariners, but did not replace the buoy, would the Coast Guard be held liable?"

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The prompt publication of a notice to mariners would usually be sufficient to exonerate the Coast Guard. If the operators of the vessel did not consult the notice to mariners before transiting the channel, then the operators may be found negligent. Of course, it is possible that more than one party may be found negligent under the circumstances. Under maritime law, if more than one party is found negligent, then each is liable for resulting damage in proportion to his percentage of negligence.

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. 50408

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