

Maritime and Admiralty Presumptions Concerning Damages Caused by Vessels

The following presumptions apply to incidents (including those in North Carolina) which are subject to maritime and admiralty laws and are often at issue following storms such as **Hurricane Florence**. Although the presumptions sound state-oriented, don't be fooled, they got their names from vessels involved in cases and are not state specific. It is important to remember that presumptions are *rebuttable*, there are often two (or more) sides to every story! Careful analysis of the facts of each incident and application of the law is critical to determining potential liability and obligations of vessels (yes, in certain instances a vessel may be liable *in rem* herself for her wrongs) and her owners and therefore perhaps her insurers.

While the "Act of God" or **force majeure** defense may be viable, there is often much more to the story worthy of consideration. Other defenses often at issue include **causation** (ie – did this boat cause that damage) and the **extent of damages** (maritime and admiralty law often prohibit "new for old").



OREGON Rule

A moving vessel that allides with (strikes) a stationary (and visible) object is *presumed* to be at fault.



LOUISIANA Rule

Presumption of fault on vessel that drifts from its moorings and damages other vessels or structures *unless* it is proved that there was an inevitable accident that human skill and precaution *could not* have prevented.



PENNSYLVANIA Rule

When a vessel violates a statutory duty or 'rule of the road', to exulpate itself from liability it must prove not only that the violation did not cause the collision, but could not have contributed to the collision.

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At Cranfill Sumner & Hartzog, we know admiralty and maritime law. From prosecuting or defending maritime fatalities, serious personal injuries and other marine casualties, we are prepared to assist you with your legal needs associated with commercial shipping and recreational boating. We are also well-suited to advise insurers, marinas, terminals and other shoreside operators concerning various industry-related legal risks and advise to offer protection.

ATTORNEYS

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OUR NETWORK

Jason R. Harris is a Proctor Member of the Maritime Law Association of the United States where he currently serves on the Board of Directors. He is also the Chairman of the MLA's Salvage Committee and for many years authored the Salvage Case Law Update. He is also a member of the Southeastern Admiralty Law Association. Jason serves as Legal Counsel to the American Salvage Association and is a former member and General Counsel of the International Association of Marine Investigators. Jason frequently presents on admiralty and maritime topics to clients and insurers and at various legal seminars. He has also taught the Admiralty and Ocean & Coastal Law courses at the Norman A. Wiggins School of Law at Campbell University for several years.

WHAT WE DO

Our admiralty and maritime law practice touches upon the following:

- Commercial and recreational vessel traffic
- Blue water commercial shipping
- Cargo disputes
- Jet ski, PWC, wave runner incidents and accident
- Collisions, allisions and casualties
- Wake damage and docking incidents
- Marine salvage, wreck removal, decommissioning
- Environmental disasters, cleanups and avoidance
- Pollution, OPA90, and water quality
- Ship mortgages, vessel re-finance, vessel foreclosure, and vessel arrest ("stickering")
- Maritime liens
- Serious maritime personal injury and death including those of seamen (captains and crew, the Jones Act, maintenance, cure and wages), non-seafarer passengers, vessel owners and operators
- Longshore Harbor Workers Compensation Act
- The General Maritime Law of the United States
- The Limitation of Liability Act ("LOLA", "LOL", "Limitation Act")
- Water skiing, commercial and recreational diving
- Commercial and recreational sportfishing, charterfishing, shellfishing and gillnetting
- Cabotage, the Jones Act, vessel registration and flagging
- Vessel regulation and subchapter M concerning towing and towed vessels
- State and federal investigations and violations by the USCG, OSHA, NTSB, MARAD, the Navy, NC Wildlife, etc.
- Seaman's manslaughter act and maritime crimes and offenses (misdemeanors and felonies)
- Fisheries acts and violations
- Warehouses, barge lines, fleeters, shippers, NVOCCs, freight forwarders, terminals
- Marina owners and operators including dry docking, dry stack storage, winterization
- Marine surveying, naval architecture, engine repairers and manufacturing, vessel, engine and component manufacturers and repairs, and other maritime professions and disciplines
- Crewing, yachting and cruise ship claims
- Inland marine
- First and third party defense, coverage, bad faith, *uberimae fidei*, utmost good faith
- P&I and hull coverage disputes

CONTACT US

For more information about our admiralty and maritime practice group, please contact Jason R. Harris.