

The In Extremis Doctrine: The Law Recognizes the Tough Tasks Vessel Masters Face in Crisis Situations

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Most of us in the shipping industry are involved only dockside, attending to business issues which rarely pose risk beyond eye strain or carpal tunnel syndrome. But we're at least aware of the demanding work mariners perform to execute the task we're hired for, i.e., the physical movement of cargo.

Generally, our conduct must comport with that of the law's nebulously defined and capriciously applied barometer, the "reasonably prudent man," lest we find ourselves liable under legal negligence theories. Was that person negligent in setting a flower pot on the window sill, which later fell onto someone's head? Let's see. What would the reasonably prudent man do? Hmm.

But crisis prevention at sea is a whole 'nother matter. Mr. Reasonably Prudent Man gets just as stressed on a ship as anyone else would. Thus, the law takes cognizance of the ordeals seaman face when their demanding work crosses the line into peril. We call the special treatment the law affords vessel skippers whose actions during crisis might seem negligent, the *in extremis* doctrine.

A nice little catchphrase sums up the *in extremis* doctrine: "the decisions of a captain are to be leniently judged when his or her vessel is put in sudden peril through no fault of its own." More than just a "hindsight is 20-20" clemency, the doctrine takes into account the true circumstances of an imminent catastrophe at sea. It mandates that when facing such circumstances, no one, not even the saltiest master with decades of oceangoing experience, should be gauged as if he were deciding where to place a flower pot.

The U.S. Court of Appeals for the Sixth Circuit, reviewing a decision issued by the federal district court sitting in the eastern District of Michigan, recently took a look at a circumstance suggesting an *in extremis* circumstance.

Ref: Grosse Ile Bridge Company v. American Steamship Company, 2002 WL 31005914 (6th Cir. (Mich.) 2002).