



SEA TRIALS



by James E. Mercante, Esq.

Boater Loses On Missed Lay-Up

In law, as in sports, a missed lay-up can be costly. In basketball, however, an easy lay-up is usually the result of a breakdown in coverage, while in admiralty law, the missed lay-up may result in losing coverage. In a recent Court of Appeals ruling, three federal judges on an appeals panel decided that the failure to make the lay-up in time was game over for the boat owner.

Insurance Forfeited

In the June 2005 issue of "Long Island Boating World," I reported on a federal district court ruling in a case we handled involving a boat owner who unwittingly forfeited his insurance coverage by failing to have his boat laid up by the date required in his insurance policy. The federal district court decision in favor of the marine insurer was issued by Judge Mary M. Lisi in Rhode Island. The boat owner appealed to the United States Court of Appeals for the First Circuit. The United States, for judicial purposes, is divided up into Circuits, with each Circuit Court of Appeals having jurisdiction over appeals emanating out of the federal district (trial) courts within its geographic

boundaries. For example, the jurisdiction of the First Circuit Court of Appeals is Massachusetts, Rhode Island, New Hampshire, Maine and Puerto Rico; New York, Connecticut and Vermont are in the Second Circuit; New Jersey, Pennsylvania, Delaware and the U.S. Virgin Islands comprise the Third Circuit, et cetera.

I will briefly outline the facts and then discuss the Court of Appeals decision. But first...how many of you readers know what a "lay-up" is (in boating not basketball), what your marine insurance policy says about it, and what lay-up period is specified? Do you have a copy of your insurance policy? The lay-up terms are either in the text of the insurance policy, on the declarations page, or both. Check it out!

Missed Lay-Up

A lay-up warranty in a marine insurance policy typically requires the vessel owner/insured to have his or her vessel fully winterized and out of commission and either stored ashore or afloat for the winter months. In the case recently decided, New Hampshire Insurance Company v. Dagnone, the policy

contained a clause stating that the vessel "must be laid-up and out of commission during the period shown on the declarations." The declarations page confirmed the "Lay-Up Warranty" stating that it is "Warranted that the described yacht be laid up and out of commission and not used by the insured for any purpose during the period from October 31 to April 15".

The case involved a 49-foot Blue Water motorboat with twin diesel engines. The vessel owner not only navigated the vessel from one marina to another during the lay-up period, but failed to fully winterize the engines prior to the October 31 deadline specified in the policy. While the insured had taken some steps to winterize the interior of the boat, the final step of putting anti-freeze in the two engines, was not yet done. The vessel remained in the water awaiting haul out at a Rhode Island marina. Before it could be hauled, however, a storm passed through the marina and the vessel broke free of the dock. The Blue Water sustained over \$38,000 in damage and collided with two sail yachts, damaging them as well. The

continued on page 19

NY STATE INSPECTIONS

T Riverhead TRAILER Inc. WHOLESALE TO THE PUBLIC



DRAW-TITE HITCHES
Sales & Service

- Boat Trailers
- Enclosed Cargo Trailers
- Landscape Trailers
- Utility Trailers
- ATV Trailers
- Snowmobile Trailers
- Motorcycle trailers
- Car Trailers
- Horse Trailers

ALL TRAILERS IN STOCK!

FREE REPAIR ESTIMATES

Bearings • Brakes • Hubs • Lights • Jacks
Pintal Hooks • Rollers • U-Bolts • Springs • Axles
Free 3 Year Service On Any Trailer

HOT SPRING DEALS!
Boats 21' - 23' 5000 lb cap.
Aluminum Roller Trailer • 32 poly rollers
Tandem Axle Brakes \$2,795

Call 631-727-6230
330 Flanders Road, Riverhead, NY
GUARANTEED LOWEST PRICES AVAILABLE
Visit Our Website at www.riverheadtrailerinc.com

INJURED ON THE WATER?

Call Experienced Maritime Lawyers for a **FREE CONSULTATION.**

Friedman & James



132 Nassau Street
Suite 900
New York, NY 10038
212-233-9385

www.friedmanjames.com

Representing professional and recreational mariners and injured passengers.

No Recovery / No Fee
Licensed in New York and New Jersey

Boating Made Better!



BONUS FREE \$25 Gift Card
by mail with purchase. Offer ends 4/30/07.

EXIDE Nautilus Marine Starting Battery

BCI Type: GRP 24.
MCA 1000.
Reserve 115.
Battery Wt. 40 lbs



Reg. Price \$89.99
Exide Mail-in Rebate -\$10
Instant In-Store Savings -\$15
\$64.99

Before Gift Card Value!
Your final cost after instant & mail-in rebates

Exp. 4/30/07

Sea Bowld Marine Bottom Paint

BONUS FREE \$25 Gift Card!
by mail with purchase Offer expires 4/30/07

Ablative 56 Gallon **\$94.99**

After \$5 Instant Rebate and Before Gift Card Value!

Powerboat Reports BEST BUY February, 2007



Coastal 45 Gallon \$64.99

After \$5 Instant Rebate and Before Gift Card Value!

Boater's World EXCLUSIVE

Raymarine HD DIGITAL GPS Chartplotter Network Systems

Purchase the **E Series** and get a **\$100** Boater's World Gift Card*



Purchase the **C Series** and get a **\$100** Boater's World Gift Card*



Purchase the **A Series** and get a **\$50** Boater's World Gift Card*



*By mail. Offer Ends 4/30/07

Closeout! While Supplies Last

Icom M302 VHF Radio

Reg. Price **\$149.99**
ICOM Mail-in Rebate -\$20
Instant In-Store Savings -\$10

Your final cost after instant & mail-in rebates

\$119.99
Before Gift Card Value!



BONUS FREE \$25 Gift Card!
by mail with purchase Offer expires 4/30/07

JABSCO Manual Marine Toilet

- Convenient top-mounted dry bowl selector
- Compact base and bowl make this head an easy fit in boats with limited space



Reg. **\$149.99** Now **\$109.99** Save **\$40**

Camco Rapid Dissolving Toilet Tissue

- 200 soft, absorbent sheets per roll



1999 Price **\$189**
FLASHBACK
While Supplies Last!
Reg. Price \$3.49

SPERRY TOP-SIDER



Barracuda Boot
The Billfish of boots

Tan 0774752
Men's med width 8-12,13

\$99.99

NEW!

AGAINST THE ELEMENTS

New Lower Prices!

Waterproof/Breathable Boating Outerwear IM-4

100% waterproof taped seams.

Men's sizes S - 2X.

Jacket available in Solid Yellow Jacket and Two Tone Yellow/Navy Jacket

Your Choice **\$59.99**

Trouser **\$49.99**



ZODIAC OF LONG ISLAND

YOUR ZODIAC HEADQUARTERS!
We Carry A Complete Line Of ZODIAC Inflatable & Rigid Bottom Boats!

shop from home at:

BoatersWorld.com
A RITZ INTERACTIVE WEBSITE

Visit us at boatersworldstores.com

- Carle Place/Long Island168 Glen Cove Rd. (2 blocks N. of Old Country Rd)(516) 877-1978
- Massapequa.....6200 Sunrise Hwy.(516) 541-6811
- Stony Brook /Long Island2308 Nesconset Hwy(631) 751-8524

Boater's World makes every effort to keep this advertisement free of error, typographical or otherwise; however, any error is subject to correction. Boater's World reserves the right to limit quantities. All rights reserved.