



# Legal consequences of shiphandling incidents

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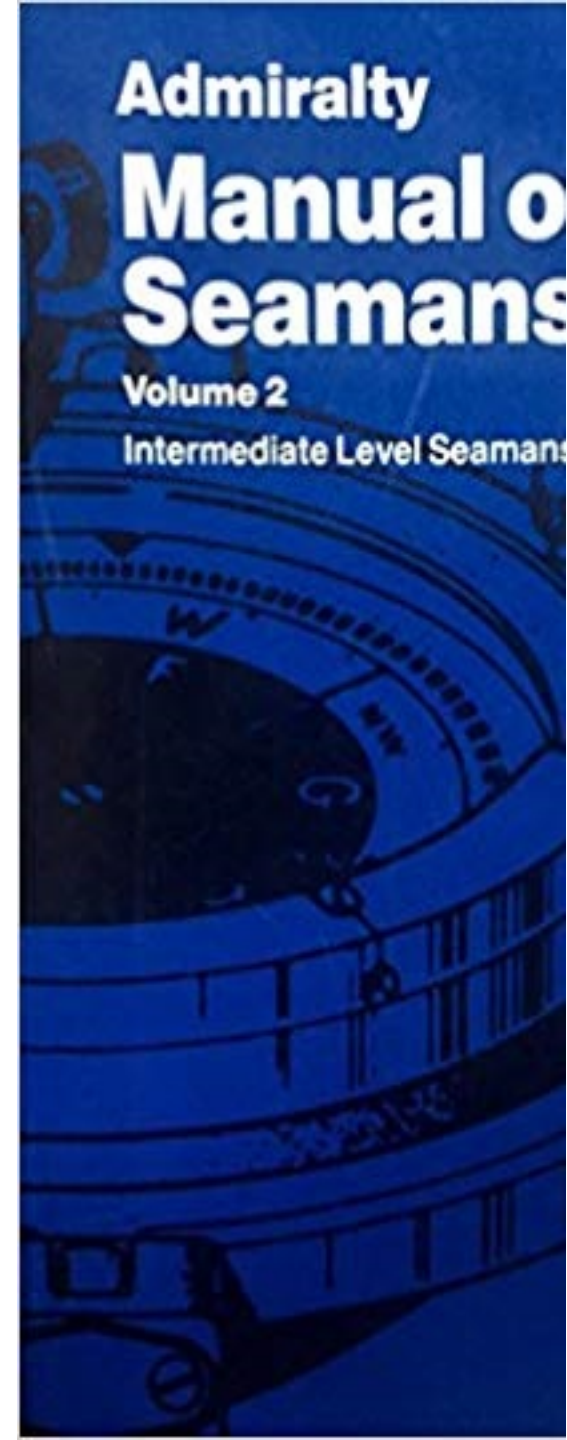
# The Role of the Admiralty Court

- Apportionment of liability for collision
- Experts
- Nautical Assessors
- Elder Brethren of Trinity House
- Trinity Masters – RN or MN



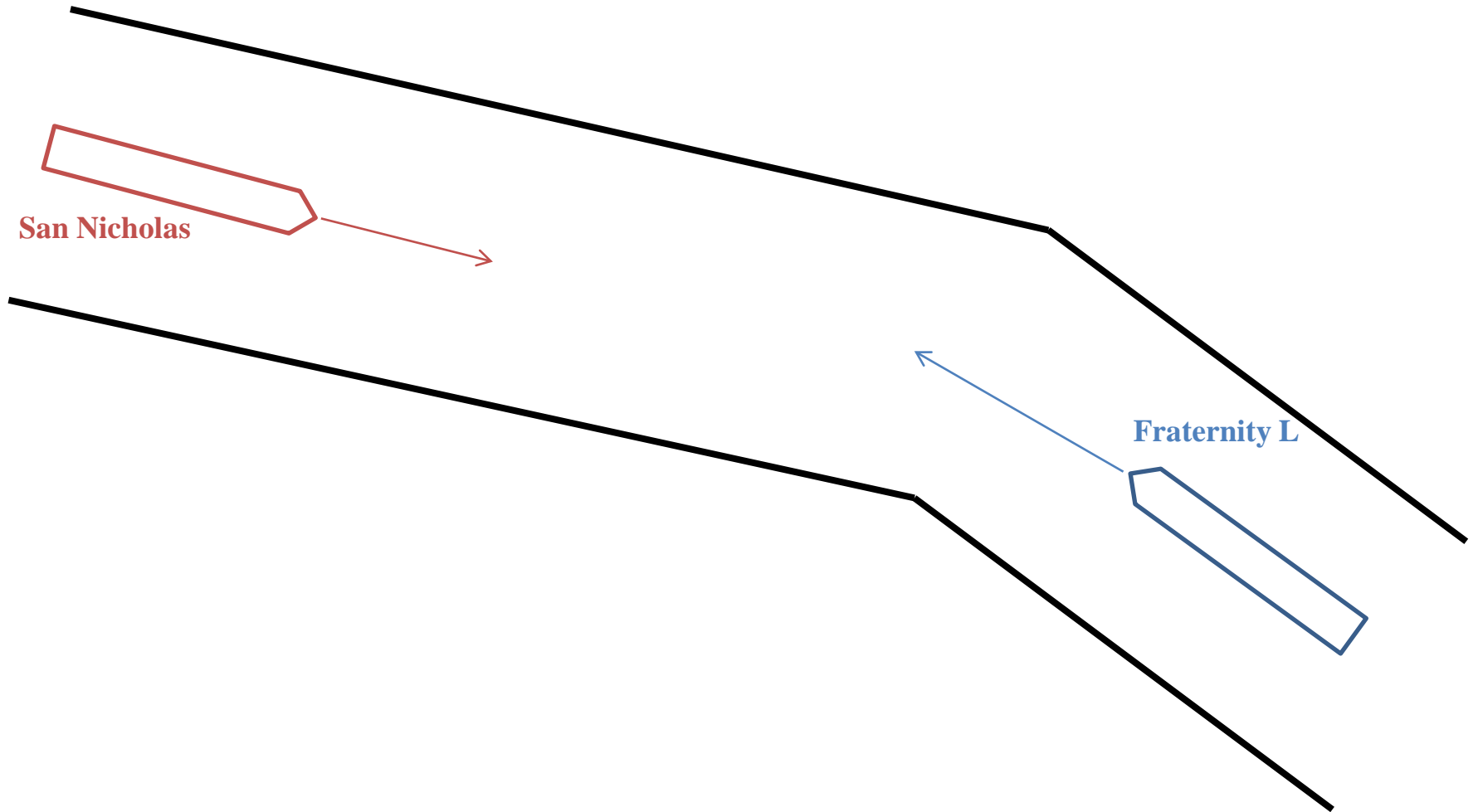
# Nautical Assessors

- Expert evidence on issues of navigation and seamanship not permitted
- Court maintains discretion to replace or supplement assessors with experts
- E.g. ship-type, geographical area
- Specialist knowledge



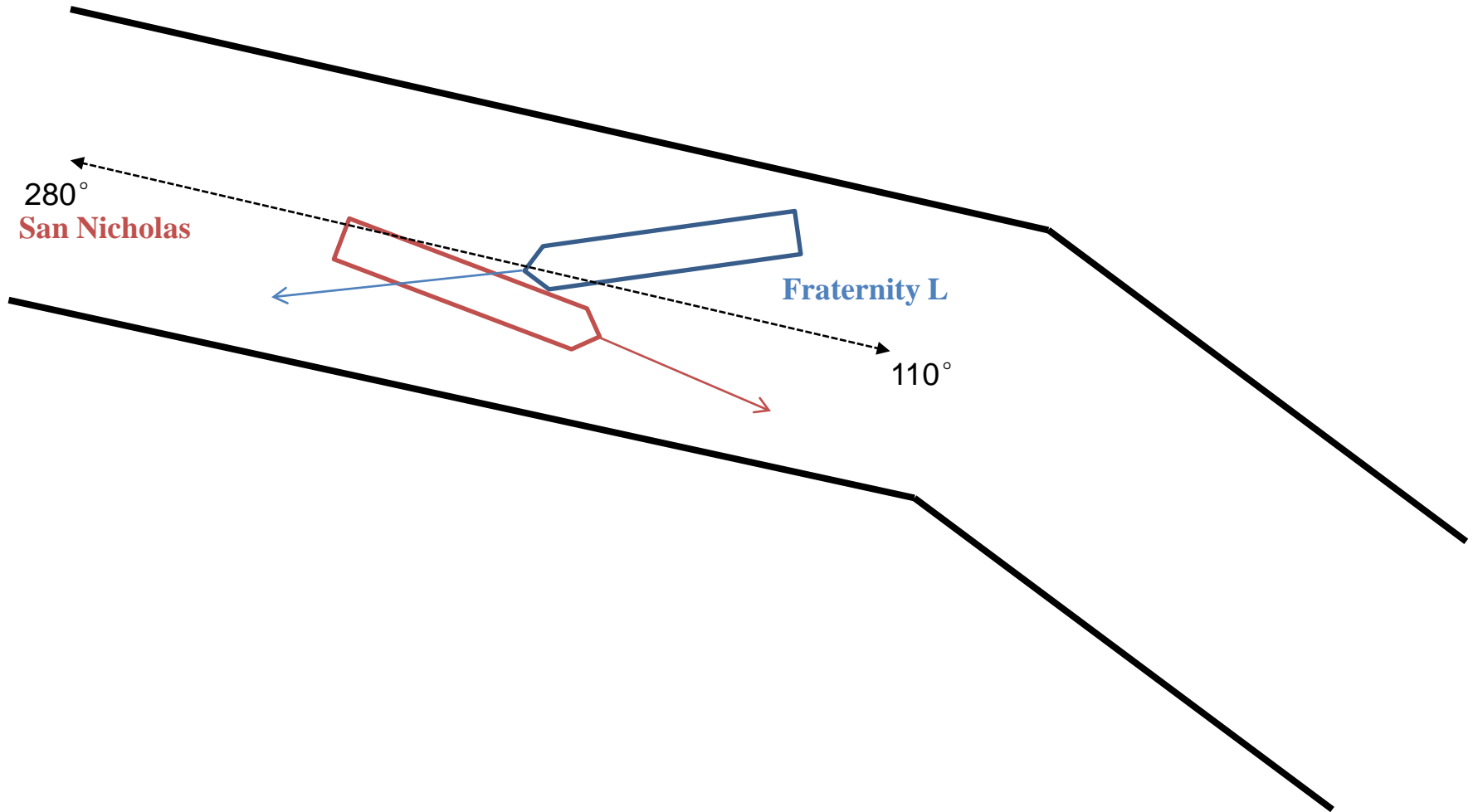
# The “*San Nicholas*”

[1994] 2 Lloyd’s Rep. 582



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## Issues

- Where in the channel did collision happen?
- Why did Fraternity L heading change from  $283.5^{\circ}$  to  $258^{\circ}$  < 2 mins prior to collision?

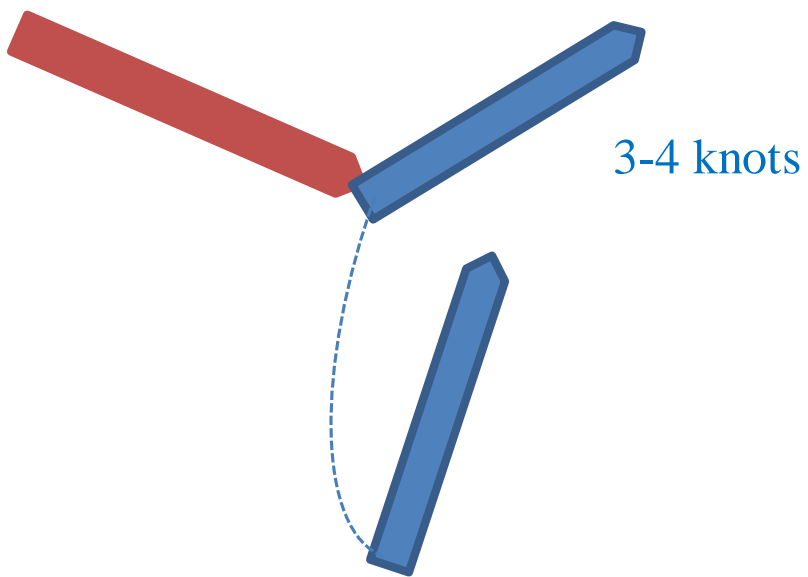
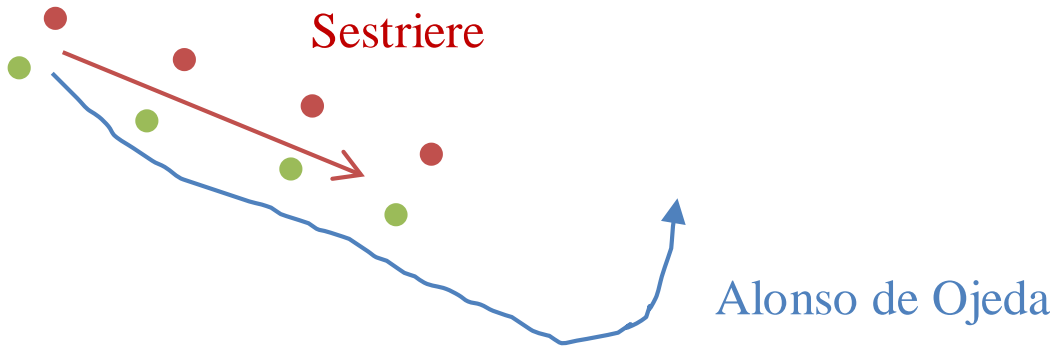
## Held

- Judge preferred expert evidence of San Nicholas
  - Fraternity L overshot turn at excessive speed
  - Bank rejection by forces of interaction
- Fraternity L alone to blame

# Collision Regulations – Rule 2

## *Responsibility*

- a) Nothing in these Rules shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.
  
- b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.





# The “Sestriere”

[1976] 2 Lloyd’s Rep.

## Issues

- Alonso claimed Sestriere alone to blame:
  - Failure to give-way to ship on her starboard side
  - Failure to keep clear of ship dropping pilot
- Sestriere claimed Alonso alone to blame
  - Improperly went full ahead and turned to starboard
  - Should have stopped engine or gone full astern

# The “*Sestriere*”

[1976] 2 Lloyd’s Rep.

## Held

- Stand-on ship needs to be on clearly defined course for crossing rule to apply
- Alonso never settled so crossing rule does not apply
- Good seamanship demanded
  - *Sestriere* to keep clear of Alonso which arrived on scene first
  - *Sestriere* not to alter course to starboard
  - *Sestriere* not to cross ahead of Alonso
  - Alonso to go full astern and not to cross ahead of *Sestriere*
  - Alonso not to swing stern toward *Sestriere*
- Liability apportioned 50/50

# The “*Forest Pioneer*”

[2007] EWHC 84 (Comm)

- Collision in approaches to Gibraltar between “Bulk Atalanta” and “Forest Pioneer”
- “Bulk Atalanta” picking up pilot
- “Forest Pioneer” picking up anchor after bunkering and departing
- “Bulk Atalanta” as give-way vessel in a crossing situation rejected
- The “Siestre” referred to:
  - “As a matter of good seamanship a vessel should take timely action to keep clear of another which was performing the operation of dropping her pilot”*
- Liability apportioned 85/15 in favour of “Bulk Atalanta”



# The “*Alexandra 1*” and “*Ever Smart*”

[2017] 1 Lloyd’s Rep. 666 and [2019] 1 Lloyd’s Rep. 130

## Issues

- Whether vessels crossing and Rule 15 applicable
- Was a duty imposed on *Alexandra 1* to keep clear of *Ever Smart*

## Held

- Crossing rule did not apply
- No duty on *Alexandra 1* to keep out of the way of *Ever Smart*
- As a matter of good seamanship
  - Duty of *Alexandra 1* was to be handled in such a way that she entered channel on starboard side per Rule 9
- *Alexandra 1* not on sufficiently defined course to engage Rule 15
- *Ever Smart* 80% and *Alexandra 1* 20% to blame

# The “*Alexandra 1*” and “*Ever Smart*”

[2017] 1 Lloyd’s Rep. 666 and [2019] 1 Lloyd’s Rep. 130

## Speed

- Significantly causative
- Compounded the damage suffered
- Ever Smart engine movements:
  - C-5 (1 min after dropping pilot) Half-ahead
  - C-4 Full-ahead
  - C- 3½ Full sea speed

## Elder Brethren Advice

- No criticism of increase in speed to assist regaining position in the channel
- Manoeuvring speed should have been maintained until clear of the channel

## Appeal

- Dismissed

# Summary

- **In the event of a collision, matters of shiphandling likely to be considered in context of Rule 2 of the COLREGS**
- **Interpretation of prescribed actions under Steering and Sailing Rules only part of the evidential jigsaw**
- **Advice of nautical assessors on matters of shiphandling/navigation/seamanship assists the admiralty judge in gaining overall picture and crucial to the determination of a fair apportionment of liability**