

# Before you sign on the dotted line

By Joyce Krisko

**G**ood insurance and a careful check of the yacht can save you dollars and anguish on a charter

Glancing around the Superior, Wisc., courtroom, Dick Larsen was again exasperated with the four-month-long chain of events that found him sitting at the plaintiff's table. How could last summer's week-long bareboat sailing charter have ended here?

"The next time I charter a sailboat I'll take precautions," he says. "And I'll never sign a contract again without asking questions and making sure that all bases are covered before I leave the dock."

Last August Larsen chartered a C&C Landfall 43 to sail Lake Superior's waters around Wisconsin's Apostle Islands. He completed the necessary paperwork, which included a damage deposit in the form of a credit card voucher for \$1,800. "The amount of \$1,800 was one percent of the value of the boat," Larsen says. "I've gone through this procedure so many times before, I never thought to question the process. My deposits have always been returned within a few days of my return home."

After a week of cruising and exploring the islands, he and his three crewmembers returned the boat to her slip in Superior, performed the customary clean-up, and left for home. "You can imagine how surprised I was," Larsen recalls, "when a letter from the chartermaster arrived three weeks later.

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In it, I was told that I was being charged \$1,500 in repairs to the boat's engine-shaft dampener that was caused by a line found wrapped around the prop and shaft. I spoke with the company, but they were unyielding when I explained there was no way I could have hit a line—I would certainly have known it. I ended up filing a claim in Wisconsin's Circuit Court."



*When you take the helm or sign on as charter captain of a bareboat, the responsibility for the boat and gear is solely yours. Above, a charter yacht gingerly negotiates the passage through Little Detroit on Canada's North Channel.*

To have avoided court action, there were some precautions Larsen could have taken. And there are aspects to a charter contract of which he and all bareboat charterers should be aware. For example, a typical bareboat, or demise, charter agreement states that the boat must be returned by a specific time to allow the charter company to fully inspect the yacht. The charterer should be sure to allow ample time for this

inspection when returning the boat to her dock. "We check each boat carefully after each charter," explains Calmore George, general manager of The Moorings's Tortola base. "We check the bottom of the boat and also make sure no equipment is missing."

Charter insurance is another option. Says Dick Jachney, owner of Caribbean Yacht Charters on St. Thomas in the U.S. Virgin Islands, "Most people choose a \$9-per-day insurance protection plan instead of a \$500 security deposit—an option we also offer."

Charter insurance, explains Missy Johnston, manager of Northrop & Johnson's charter department in Newport, R.I., covers third-party damage. "The language," she says, "is pretty standard because charterers in a bareboat situation assume the same responsibility as does the owner of the yacht. Charterers essentially have the option of an insurance policy (collision damage waiver) or a security deposit. The choice is risking that security deposit, or spending a fixed amount per day, which is usually from \$8 to \$16."

If a captain chooses his or her crew for the charter and is the only one signing the contract with the charter company, that captain is responsible for all damage or loss that occurs during the charter—even if the cost of the charter is divided among all the parties. In order to protect the captain's liability, Bob Smith, charter broker with Sparkman & Stephens of New York City, recommends carrying a release on board, which all members of the party have signed. He also suggests that charterers discuss purchasing a short-term rider on their own insurance policy. "An insurance company might consider doing that," Smith says, "especially if the charterer is already a vessel owner."

A charterer may have liability coverage under his or her homeowner's insurance policy, says James B. Robbins, with C. A. Hansen, an insurance company in Miami, Fla. "Check with your agent," he suggests. "Describe the boat being chartered. You may or may not be covered, according to the individual insurance company." Charterers should also check on the insurance status of the dinghy, according to Johnston. "A dinghy is not always insured," she says. "Charterers should always ask if the collision damage waiver covers it—it may or it may not."

No matter how well insured you are, it's important before you leave the harbor to check

and double-check the condition of the boat for your own safety as well as your financial protection. There is usually nothing in a charter contract about the normal wear and tear of the sailboat's equipment and rigging and there is a wide interpretation of the term "normal wear and tear." A typical charter contract will say that the charterer is responsible for all risk of loss and damage to the yacht, or injury to any person from any cause whatsoever. Consulting with the chartermaster before signing the contract and getting a definition of "normal wear and tear" beforehand could save a lot of headaches. A charterer may wish to add a phrase to the damage liability section of the contract that excludes his or her liability for normal wear and tear. "It's up to our check-in people to determine normal wear and tear on equipment," says Michael Ann Harvey of The Moorings, which charters 600 yachts in its worldwide fleets. "These people know the condition of the boat when it goes out."

Carolyn Cox, charter manager for Alden Yacht Brokerage in Portsmouth, R.I., stresses the importance of the relationship between the charter company and the owner of the boat. "We screen our owners carefully," she says. "They realize that their boats are in our fleet to be chartered, not primarily to defray the cost of maintaining their boats." If something is broken during one of their

charters, Cox says, it is usually the responsibility of the owner to fix it, unless, of course, it is obviously the fault of the charterer.

Following his appearance in court, Dick Larsen was awarded the return of the security deposit that was charged for the repair of the engine-shaft dampener. The Court Commissioner's opinion stated that, according to the contract, the charter company was required to inspect the yacht for any damage before 5 p.m. on the day of return. Because the company did not follow the terms of its own contract, and because "the Chartermaster used the boat to go to the gas dock and did not discover any problem at that time...and the charter company failed in its duty to inspect the boat in a timely fashion, they are unable to show that the damage was done while the boat was in [Larsen's] possession."

"After my experience," Larsen states, "I will always request that my security deposit be returned before I leave the marina. And before I sign anything, I'll make sure the company will be willing to do this."

**T**here is a wide definition of the term "normal wear and tear."