

First Circuit Affirms Doctrine of *Uberrimae Fidei*

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In a newly-issued decision in *Catlin (Syndicate 2003) v. San Juan Towing and Marine Services*, the United States Court of Appeals for the First Circuit has held that the maritime doctrine of *uberrimae fidei* – “utmost good faith” – is an established rule of maritime law, joining the Second, Third, Eighth, Ninth, and Eleventh Circuits. San Juan had sought to recover on a hull insurance policy for damages from the sinking of its floating drydock. However, Catlin sought to void the policy by alleging that San Juan had misrepresented the value of the drydock and had failed to disclose the true condition of the vessel. Under the doctrine of *uberrimae fidei*, such non-disclosure would permit the underwriters to void the policy, while San Juan argued that the more lenient Puerto Rican insurance law should apply. In its 1955 decision in *Wilburn Boat Co. v. Fireman’s Fund*, the U.S. Supreme Court had held that courts should decide marine insurance issues under the applicable state law, in the absence of entrenched federal precedent on the issue in question. In 1991, the Fifth Circuit had concluded in the *Anh Thi Kieu* case that the maritime doctrine of *uberrimae fidei* was not so well entrenched as to displace state law. However, that decision has been widely rejected by the other Circuits, including now the First Circuit. This means that persons relying on marine insurance have an increasingly well-established obligation to disclose all known circumstances that materially affect the insurer’s risk.

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