

Cargo owners, insurers, sue Ever Given owner over navigation decision in Suez Canal

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Cargo owners Adriaanse Import & Export, JDM Food Group, Rewe-Zentral, TFC Holland and their insurers, US-based AIG and Germany-based Allianz, are suing the ship's owner, Japan-based Shoei Kisen Kaisha, in a London court over the six-day grounding of giant container ship Ever Given in the southern section of the Suez Canal in March 2021.

Although only grounded for six days, the Ever Given was detained for several months until negotiations between the Suez Canal Authority (SCA) and the shipowner's liability insurer came to a conclusion.

Many of the claims in this case relate to food which had spoiled by the time it eventually reached its destination.

The shippers and their insurers claim that the grounding happened because of a decision to travel too quickly through the canal and because of a failure to stick to the deepest, central part of the waterway.

The cargo owners told the High Court in London that the shipowners "were negligent and/or failed to act with reasonable care and skill in breach of their duties."

The court papers filed in London allege that the master of the ship, which was managed by Bernhard Schulte Shipmanagement, was sailing for 18 minutes above the 12-knot speed limit when the ship lost control. It veered off to one side and, as a result of the variation in water speed on the two sides of the vessel because of the initial swerve, caused the Ever Given to slam hard into one of the banks of the canal. This blocked intercontinental trade for nearly a week, with queues of vessels to the north and south of the waterway reaching three figures. Many other vessels chose to divert south and travel round the Cape.

In previous court cases there had been significant criticism on the two pilots onboard the Ever Given, with debates surfacing about the extent to which a Captain

could be deemed to be de facto “in charge”. Despite the de jure position that the Captain remains the person responsible, even when navigation is handed over to local experts, the pilots.

The ship entered the canal on March 23rd 2021 in stormy conditions, with strong winds thought to have had bursts above 50 knots.

The previous day the master of an LNG carrier had decided to delay transiting the Canal, because the weather conditions made keeping a straight line difficult.

Ever Given was placed 13th in a 20-ship convoy, but only a short time into the journey, the 400-metre long ship veered from port to starboard and then back again. In response, according to court documents from a hearing in Egypt in June last year, the lead SCA pilot instructed the helmsman to steer hard right, then hard left.

The problem was that the response time for such a large vessel was too slow for the nimbleness required in a channel with little leeway on either side. By the time it began to move, the helmsman needed to correct course again. The second pilot apparently objected to this counter-correction, presumably because he could see what might happen as a result. The two were then reported to have argued over what to do, an Egyptian court was told last year.

The lead pilot then gave the order “Full ahead” and the ship accelerated to 13 knots. The two pilots continued to argue, and at one point the lead pilot threatened to leave the ship. The increase in power brought into play the known but sometimes insufficiently understood aspect of fluid physics, namely Bernoulli’s principle. This sees a fluid’s pressure to decrease when its speed goes up. If there is more water on one side of the vessel than on the other, the pressure on one side varies from that on the other. The greater the length of the ship and the greater the differential, the greater the impact of the principle.

The SCA continues to deny that its pilots were to blame for the accident. French reinsurer SCOR has estimated that claims relating to the Ever Given grounding would top \$2bn and that most of these losses would devolve to the reinsurance sector.

Sylvain Gauden, chief underwriting officer for marine and energy reinsurance at SCOR, noted that the Ever Given faced a sandstorm, poor visibility, a strong south wind and some miscommunication, all of which combined to make the Ever Given accelerate in the narrow channel, rendering it unmanoeuvrable.

“The big lesson is that some sand and wind can potentially cause a tragedy of global proportions. This demonstrates the fragility of our economic and social models,”

SCOR estimated that as many as 400 ships were blocked in total.

Claims from the grounding include physical damage to the Ever Given, loss of revenue on the part of the SCA, the cost of the salvage operations and business interruption for owners and charterers of the blocked vessels, loss of perishables and cargo delays, as well as damage to the canal itself.