

Defining the Duration of Extraordinary Diligence for the Safety of Passengers

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Humans have always been explorers. This drive to search and discover stems from man's insatiable curiosity for the unknown. And in all of the greatest explorations of our time, transportation has played an indispensable role. The march of development in transport technology during their times made it possible for Columbus, Magellan, Armstrong and other pioneers like them to discover not only new lands and civilizations, but also new planets and galaxies.

Today, modern transport remains a major factor in determining the course of human, political, and economic development. In an age of borderless economies, people have become more transient than ever before. As such, there is natural demand for efficient and convenient means of travel. For many years, this need has been addressed by business entities popularly known in law as common carriers. Despite the advancement in mass transportation technology, however, there is one element in the business of common carriage that has remained stagnant — the tendency of common carriers to prioritize profits over the quality of their service and the safety of their passengers. Laws nevertheless exist for the purpose of curbing this deleterious tendency.

Article 1755 of the Civil Code, for instance, provides that “a common carrier is bound to carry the passenger safely as far as human care and foresight can provide, using the utmost diligence of very cautious persons, with a due regard for all the circumstances.” To add compulsive force to this obligation, Article 1756 provides for a disincentive against erring common carriers by presuming it negligent in case of death or injury to the passenger.

Presently, a controversial issue involving the extraordinary diligence required of common carriers exists. This controversy relates to the issue of time. From and until what point in time is a carrier required to assume and perform its obligation to observe extraordinary diligence for the safety of passengers? The law does not define the time parameters of this obligation, although Philippine and American jurisprudence have suggested some answers. Due to the controversy spawned by the absence of positive law on the matter and the seemingly erratic nature of such jurisprudence, it is desirable, if not imperative, that a law be enacted to settle the issue and

henceforth guide the courts in their adjudication of disputes between carriers and passengers.