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**IN THE MATTER OF THE COMPLAINT OF AMF, AS OWNER OF LAURIE,
SEEKING EXONERATION FROM OR LIMITATION OF LIABILITY
United States Court of Appeals, Second Circuit, 21 July 1982
543 F.Supp. 431.**

Where a single incident could expose pleasure boat owner to multiple claims exceeding his boat's value, one for personal injuries and the other for indemnification by a co-defendant, federal court will permit the personal injury plaintiff to continue her state court jury action but will stay entry of judgment on both this claim and the co-defendant's indemnity claim pending federal court's decision on boat owner's right to limit liability.

FACTS: On March 9, 1980, while traveling northwest along the Main Channel of the Port of Miami, David Richardson's 23-foot pleasure boat struck a wake allegedly caused by another pleasure vessel, Laurie, owned by AMF ("AMF"). As a result of this incident, one of Richardson's passengers, a Mrs. Merryll Wilson, claims to have sustained severe and permanent back injuries.

On June 26, 1981, Mrs. Wilson filed a complaint in New York Supreme Court, New York County, against both Richardson and AMF, claiming that her injuries were caused by the negligent operation of the two pleasure boats, and seeking damages in the amount of two million five hundred thousand dollars. Shortly thereafter, Richardson filed a cross claim against AMF seeking "indemnity and/or contribution" for any liability assessed against him for Mrs. Wilson's state court action. Subsequently, AMF filed with the United States District Court for the Southern District of New York a complaint seeking exoneration from or limitation of liability pursuant to 46 U.S.C. sections 183-185, 188. This complaint alleges that the accident was not caused by any negligence on the part of AMF, who should therefore be exonerated from liability. It further alleges that the accident occurred without AMF's privity or knowledge, that the net value of the Laurie does not exceed \$396,000, and that AMF is therefore entitled to limit its liability to that amount.

On February 8, 1982, the district court entered an order approving AMF's stipulation for value, staying until determination of the action before them further prosecution of any and all actions commenced or to be commenced against the Laurie in respect to claims arising from the March 9, 1980 incident and directing the Clerk of the Court to notify all persons asserting such claims to file them in this action on or before April 5, 1982. At the time of this decision only Merryll Wilson had filed such a claim, but the possibility nevertheless remained that Richardson might apply and be granted leave to file a belated claim under Supplemental Rule F(4), F.R. Civ. P.

At a pre-trial conference held before the district court on April 13, 1982, counsel for Mrs. Wilson asked that the court lift the injunction against prosecution of her state court action. The oral motion was accepted and the parties were directed to brief the issue. The district court concluded that Mrs. Wilson should be permitted to try her claim in state court.

ISSUE: Whether the federal court may stay entry of judgment on personal injury and indemnification actions pending its decision on boat owner's right to limit liability?

ANALYSIS: The considerations which guided the court's discretion in dealing with the application were laid out by the Supreme Court in *Langnes v. Green*, 282 U.S. 531 (1931). The Court there opened its discussion of applicable guidelines by specifying two basic values that should be protected: (1) the right of the claimant to a jury trial whenever possible; (2) the right of the shipowner to the full protection of the limitation of liability statute against personal judgments totaling more than the value of his interest in the vessel. 282 U.S. at 531.

In light of *Langnes* the court was enjoined to solve the problem of how to protect the legitimate rights of the Laurie's owner with the least possible interference with those of Mrs. Wilson. It was clear that there would be only one law suit concerning the incident that gave rise to Mrs. Wilson's alleged injury, and that AMF was threatened by no other claims. However, that single law suit could itself give rise to separate claims against AMF totaling more than the value of the Laurie.

The court arbitrarily assumed that the state jury were to fix Mrs. Wilson's damages at \$2,000,000 in her suit for \$2,500,000, find her free from contributory negligence and find Richardson and the Laurie to have been equally at fault. It was further assumed that, having entered judgment in the amount of \$2,000,000 against both Richardson and AMF, Mrs. Wilson were to levy on the Laurie, succeed in selling it for \$400,000, and then actually collect \$1,500,000 from Richardson. On this set of assumptions, AMF, having lost the ship, would nevertheless be faced with an unsatisfied judgment in the amount of \$100,000 in Mrs. Wilson's hands and an unsatisfied claim of over \$500,000 by Richardson. The court declared that this was precisely the result that the limitation of liability act was designed to avoid.

It was apparent, however, that these supposed dangers could arise only after Mrs. Wilson had obtained a judgment in the state court action. The Laurie's owner would therefore be fully protected were the federal court to continue in effect as to all other actions the stay entered in its order of February 8, 1982, permit the state court action to proceed, for the moment unfettered, in that court, but stay entry of judgment and consequent enforcement of any recovery there secured against AMF, whether on Wilson's direct claim or on Richardson's cross-claim, pending resolution in the district court of AMF's right to limit its liability.

This procedure successfully vindicated Mrs. Wilson's right to a jury trial and saved her the expense and inconvenience of litigating the same alleged incident in two separate forums. It also provided AMF with all the protection the statute intends it to enjoy since it is protected from recovery in excess of the value of the Laurie.

The Order of February 8, 1982 was modified accordingly. Further, as the court suggested in *Langnes*, the district court retained jurisdiction to protect AMF from any unanticipated developments. It was also noted in this decision that should it develop after verdict was achieved that any party or parties' right for post-verdict relief were compromised by inability to enter judgment, upon a motion this court could fashion relief which would allow the parties fully to exploit their state remedies without interfering with any federal rights this court is charged with vindicating.

Karen Malewski '84