

Gulf Trading & Transportation Co. v. M/V Tento, United States Court of Appeals, Ninth Circuit, 20 December 1982, 694 F.2d 1191

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GULF TRADING & TRANSPORTATION CO. v. M/V TENTO
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Choice of law questions involving maritime liens are to be resolved by weighing all the interests and jurisdictions involved in the transaction.

FACTS: The Norwegian owner of the Tendo chartered the vessel to a U.S. company which subchartered it to another U.S. company. On a voyage from the U.S. to the Suez Canal, the subcharterer incurred two obligations. These invoices were not paid and led to the filing of two liens against the vessel when it docked in California. The first transaction involved the refueling of the vessel in Italy. Gulf, a Delaware corporation, contracted with and paid an Italian company to deliver the fuel oil. The second transaction involved Permal, a New York corporation, which advanced approximately \$40,000 for the vessel's Suez Canal transit. The owner of the vessel maintained that the correct choice of law is determined by the point where the transaction occurred. Under Egyptian and Italian law the owner's vessel would not be subject to liens for debts incurred by a subcharterer.

ISSUE: What must be viewed to determine the choice of law in a Maritime lien case?

ANALYSIS: The general rule in Maritime choice of law questions, as stated by the Supreme Court is: "Maritime law, ... has attempted to avoid or resolve conflicts between competing laws by ascertaining and valuing points of contact between the transaction and the states or governments whose competing laws are involved." *Lauritzen v. Larsen*, 345 U.S. 571, 582. The opinion in *Lauritzen* although involving a specific choice of law question under the Jones Act has become the basis of decisions in other areas.

The court here basically adopts a similar approach, by examining and weighing all interests and contacts involved. The court found such an approach would be consistent with its previous holdings in both maritime and non-maritime cases. This decision also conforms with a Second Circuit Court of Appeals decision which followed *Lauritzen* and required a consideration of all contacts in a choice of law question involving maritime liens. *Rainbow Line, Inc. v. M/V Tequila* 480 F.2d 1024 (1973).

The court finds additional support for the holding in congressional policy. The court cites 1976 amendments to the maritime lien portions of the Ship Mortgage Act as demonstrating the clear intent of congress to extend the reach of the lien statute to foreign owners. The owner had relied on *McCulloch v. Sociedad Nacional de Marineros de Honduras*, 372 U.S. 10 (1963), where the Supreme Court found that it could not extend the coverage of a labor statute without clear congressional mandate. The court distinguishes *McCulloch*, finding that here congress has clearly identified important policy considerations for extending the statute.

In concluding the court finds that a single contact approach would be against the interests of judicial efficiency due to the number contacts a vessel that stopped at many ports could create in a voyage. The court finds that considering the contacts involved in this case, U.S. law should resolve the litigation.

Gerald J. Gunning '84