Andrew G. Black v. Red Star Towing & Transportation Co., Inc. v. Mobil Oil Corp. United States Court of Appeals, Second Circuit, 17 October 1988 860 F.2d 30 (en banc)
ANALYSIS: In the United States Court of Appeals decision overruling The Federal No. 2, the court reviewed the analysis between the social conditions which give rise for a parent to recover monetary damages for expenses incurred in connection with injuries sustained to her children, and the like doctrine for spousal recovery under similar circumstances, to that of a seawman's rights to maintenance and cure which arise under a contractual relationship between an employer and employee. Following this rationale, the court in The Federal No. 2 had denied recovery by a shipowner for expenses voluntarily paid to an injured seaman for maintenance and cure. This policy has been followed to insure the unqualified right of an injured seaman, to the prompt payment of maintenance and cure, without delay of third-party actions. See Aguilar v. Standard Oil Co., 318 U.S. 724, 730 (1943). This benefit did not preclude a seaman from recovering directly from the primary third-party tortfeasor for injuries sustained. However, when the seaman sued both the third-party and the shipowner jointly, the shipowner remained responsible for maintenance and cure to the extent of the third-party's failure to pay. See Seely v. City of New York, 24 F. 2d 412 (2d Cir. 1929).

In reviewing the handling of this issue in other circuits, this court examined the Third Circuit's application of state common law in favor of the doctrine of indemnification and/or contribution by third parties under the theory that a seaman-shipowner relationship does give rise to a "social condition" deserving of the right of contribution. See Jones v. Waterman Steamship Corp. Inc., 155 F.2d 992 (3d Cir. 1946). The Fifth Circuit rejected the holding of The Federal No. 2, and held that an innocent shipowner was entitled to indemnification from a third-party tort-feasor for expenses incurred in the payment of maintenance and cure. See Savoie v. LaFourche Boat Rentals Inc., 627 F.2d 722, 723 (5th Cir. 1980).

The Ninth Circuit allowed third-party actions for indemnification based on the contractual relationship that existed between the shipowner and the third-party which gives rise to the implied warranty of workmanlike performance. See Ryan Stevedoring Co. v. Pan-Atlantic Steamship Corp., 350 U.S. 124 (1956). In the instant matter, however, the court found that this single transact action did not give rise to a contractual relationship and therefore, Red Star's theory of a breached of the implied warranties did not apply.

In reviewing the equity of an innocent shipowner bearing the full burden of maintenance and cure, the United States Court of Appeals concluded that a claim by a shipowner against a third-party tortfeasor was little more than a "claim for contribution under well-settled admiralty principles." See Adams v. Texaco, Inc., 640 F. 2d 618, 621 (5th Cir. 1981). In balancing the equities, this court held that such claim for reimbursement could be brought by an independent action, a third-party action, or a cross-claim, but only to the extent of that third-party's proportionate share of the damages. The court reversed and remanded this matter to the district court, with instruction to enter judgment in favor of Red Star in an amount equal to Mobil's proportionate share of the maintenance and cure paid by Red Star.

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