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Litchfield and Goods Export, Ltd. United States District Court for
the District of Rhode Island, 25 January 1989 705 F. Supp. 75**

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AMERICAN SAIL TRAINING ASSOCIATION v. MARK SHIRLEY PORTAL LITCHFIELD and GOODS EXPORT, LTD.
United States District Court for the District of Rhode Island, 25 January 1989
705 F. Supp. 75

The Federal Court has jurisdiction over a federal defendant with temporary ties to the United States for claims arising from the breach of a contract executed in England.

FACTS: The S/V Marques, a three masted 117 foot barque was owned by defendant Litchfield and his partner, not a party to the action. Litchfield and his partner were the sole principals of the China Clipper Society (CCS) which maintained title to the refitted sixty-seven year old vessel. CCS was an extension of the defendant's corporation, Goods Export. The plaintiff, American Sail Training Association (ASTA) contends that Goods Export was the beneficial owner of the vessel.

ASTA is a non-profit organization sponsoring tall ship races and sail training for its students. Through ASTA, Litchfield entered the S/V Marques in the "Cutty Sark International Tall Ships Race" on June 2, 1984 from Bermuda to Halifax. Among the crew were ASTA sailing trainees. The vessel sank in a storm in early June 1984, eighty miles northeast of Bermuda. Nineteen aboard lost their lives, including several ASTA trainees. Their representatives instituted suits against ASTA, the owners of the S/V Marques, its insurers, and the promoters of the race. ASTA seeks indemnification from both Litchfield and Goods Export.

ISSUES: Whether the district court has jurisdiction over a foreign defendant arising from the breach of a contract executed in England, where defendant's ties to the jurisdiction are temporary?

ANALYSIS: The district court first examined the question of in personam jurisdiction. To determine if there was jurisdiction, the court looked to the facts that preceded the formation of the agreement between Litchfield and ASTA. Litchfield made two trips to Newport, Rhode Island for promotional purposes. On the first trip, he established a promotional office. The second trip was made to meet with ASTA to discuss arrangements for the Tall Ship Race. He hired a representative to operate the office. On April 16, 1984, Litchfield and ASTA entered into a letter agreement executed in England that was the result of constant communications between ASTA, Litchfield in England, and his representative in Newport. The Newport representative also corresponded on stationery bearing the letterhead of CCS with the Newport address, placed advertisements, obtained a local post office box, and opened a local bank account.

The agreement provided that ASTA would solicit trainees and provide counselors. In turn, the owners would abide by ASTA's requirements, including the provision of liability insurance in stipulated minimum limits. Litchfield also personally and contractually represented that the vessel was seaworthy.

The court found that Litchfield's temporary ties to Rhode Island did not constitute the type of systematic and continuous contact that gives rise to general jurisdiction, but were sufficient to

confir specific jurisdiction, as defined in *Helicopteros Nacionales de Columbia v. Hall*, 466 U.S. 408 (1984). The court also held that although the contract was executed in England, this fact did not defeat Rhode Island's jurisdiction. The general rule that a contract is deemed made at the place of acceptance of the offer, *Good Will Home Association v. Drayton*, 108 R.I. 277 (1971), does not defeat jurisdiction where the foreign party has availed himself of the privileges, benefits, and protections of the forum state's laws. *Burger King v. Rudzewicz*, 471 U.S. 462 (1985). Thus, the court denied Litchfield's motion to dismiss for lack of in personam jurisdiction, holding that his activities in Rhode Island were sufficient minimal contacts.

As to defendant Goods Export, Ltd., the court found that the plaintiff had failed to establish the defendant's ties to either Rhode Island or the letter agreement between CCS and ASTA, and granted its motion to dismiss.

The next question the court turned to was the defendant's contention that the court could not exercise its admiralty and maritime jurisdiction under 28 U.S.C.A. §1333 because the letter agreement bears no relation to navigation and commerce. The court held that this agreement, which concerns the operation of the vessel in compliance with sailing and safety standards of ASTA, was maritime in nature and was within the court's jurisdiction. Accordingly, the court denied Litchfield's motion for dismissal for lack of subject matter jurisdiction.

The court then addressed Litchfield's motion to dismiss for failure to state a claim upon which relief can be granted. This motion was directed to the plaintiff's complaint alleging breach of warranty of seaworthiness. Litchfield contends that admiralty law provides no duty or warranty of seaworthiness that runs from the owners to ASTA. However, since there was an express warranty of seaworthiness incorporated into this agreement this motion was denied.

Litchfield's final motion for dismissal was on the grounds of forum non conveniens, a doctrine designed to protect the parties and public from unnecessary inconvenience and expense. *Trans-Atlantic Oil Ltd. v. Apex Oil Co.*, 743 F.2d 956 (1st Cir. 1984). The court observed that when one party is foreign both parties may experience inconvenience in bringing witnesses to the forum. *Everett Charles Contact Products, Inc. v. Gentec*, 692 F. Supp. 83 (D.R.I. 1988). Additionally, the court found that Rhode Island had a public interest in this litigation, as the claims for which the plaintiff seeks indemnification were brought by U.S. citizens, and the agreement was actively negotiated in Rhode Island. The court concluded that, although there may be some conflict of contract principles, it would not disturb plaintiff's decision to bring action in Rhode Island.

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