Federal Insurance Company v. Lake Shore Inc.  
United States Court of Appeals, Fourth Circuit, 20 September 1989 886 F.2d 654

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STOCKSTILL v. PETTY RAY

FACTS: In April of 1985, General Electric Company (GE) shipped a turbine accessory base aboard the M/V Paul Bunyon. While the base was being loaded aboard the vessel a cargo winch allegedly malfunctioned causing the base to fall and become damaged. At the time of the accident the vessel was docked in Charleston, South Carolina. Under its contract of insurance, Federal Insurance Company (Federal), a New Jersey corporation, thus became entitled to the subrogated claim of GE. Plaintiff-appellant, Federal, a New Jersey corporation, shipped a turbine accessory base aboard the M/V Paul Bunyon. Sturgeon Bay, Wisconsin, engaged in the design and manufacture of ocean-going vessels. Defendant-appellee, Lake Shore Inc., a Pennsylvania corporation, was manufactured in Michigan and the vessel was designed and manufactured in Wisconsin for American Heavy Lift Shipping Company (AHL), a Delaware corporation. The contract of sale between Peterson and AHL was executed in Wisconsin and neither has agents, employees or subsidiaries in South Carolina and are not licensed to do business in that state. The Lake Shore cargo winch installed on the M/V Paul Bunyon was designed and manufactured by defendant-appellee Peterson Builders Inc. (Peterson), a Wisconsin corporation with its principal place of business in Sturgeon Bay, Wisconsin, engaged in the design and manufacture of ocean-going vessels. Defendant-appellee, Lake Shore Inc. (Lake Shore), is a Michigan corporation engaged in the design, manufacture, and sale of cargo winches, with its principal place of business in Iron Mountain, Michigan.

The Lake Shore cargo winch installed on the M/V Paul Bunyon was manufactured in Michigan and the vessel was designed and manufactured in Wisconsin for American Heavy Lift Shipping Company (AHL), a Delaware corporation. The contract of sale between Peterson and AHL was executed in Wisconsin and Pennsylvania. AHL accepted delivery of the vessel in Wisconsin. In March of 1988, Federal filed suit against Peterson, Lake Shore and American Ship Management (American) in the United States District Court for the District of South Carolina, involving the court’s admiralty and maritime jurisdiction. American is a Delaware Corporation that hired the vessel’s crew and handled the vessel’s insurance needs. Federal sought to recover the $322,543.46 paid to GE plus interest and costs, for causes of action including: negligence, strict liability, and breach of express and implied warranties. Peterson and Lake Shore entered special appearances and moved to dismiss for lack of in personam jurisdiction. American moved for summary judgment. The district court held that it did not have personal jurisdiction over the Defendants and granted Federal’s and Lake Shore’s motion to dismiss and American’s motion for summary judgment.

Federal appealed the district court’s grant of Lake Shore’s and Peterson’s motion to dismiss. Lake Shore and Peterson do not maintain offices in South Carolina and are not licensed to do business in that state. Neither has agents, employees or subsidiaries in South Carolina and neither maintains a bank account or owns real or personal property in the state. Also, all of Lake Shore’s products and materials sold to South Carolina residents have been shipped F.O.B. Michigan.

ISSUES: 1) Do defendants have sufficient “minimum contacts” with South Carolina such that the exercise of in personam jurisdiction would not offend the “traditional notions of fair play and substantial justice” embodied in the constitutional principles of due process?

2) In the absence of such “minimum contacts” will a general stream of commerce theory or the unique nature of ocean-going vessels support the exercise of personal jurisdiction?

ANALYSIS: The Court of Appeals, for the Fourth Circuit, affirmed the district court’s finding that defendants lacked sufficient “minimum contacts” with South Carolina to be amenable to suit there. The court also held that without such contacts neither the nature of ocean-going vessels nor a stream of commerce theory supported the exercise of in personam jurisdiction over defendants.

The court noted that Congress had not authorized nationwide service of process in admiralty cases so that South Carolina’s long-arm statute (construed to extend jurisdiction "to (continues...)"
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the outer limits" of due process, Triplet v. R.M. Wade & Co., 261 S.C. 419 (1973)) had to be applied to determine whether the exercise of personal jurisdiction met the requirements of due process. The Court noted that, "the constitutional touchstone remains whether the defendant purposefully established 'minimum contacts' in the forum," Burger King v. Rudzewicz, 471 U.S. 467, 474 (1985) "such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.' " International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945) quoting Milliken v. Meyer, 311 U.S. 457, 463 (1940).

Under the facts, the Court found that the defendant's contact with the forum state did not suggest a purposefulness, and thus personal jurisdiction could not be asserted without offending notions of due process.

The court also rejected Federal's argument that defendants were subject to South Carolina's personal jurisdiction under a stream of commerce theory. Citing Asahi Metal Industry Co. v. Superior Court, 480 U.S. 102 (1986), the Court noted that factors such as marketing and advertising by defendants in the forum state which might make a stream of commerce theory applicable were lacking. Moreover, in this case, defendants' products were transported into the forum by a consumer. To allow the state to use this as a means of exercising personal jurisdiction over defendants would effectively mean that, "amenability to suit would travel with the chattel." World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 296 (1980). Also, this case did not involve multiple deliveries of units into South Carolina over a period of years. Asahi, 480 U.S. at 122. Though the court did not reject out of hand a stream of commerce theory, such a theory clearly did not apply in this case.

ISSUES:

1) Is the duty to provide a seaworthy vessel qualified by an assumption that the crew will navigate the vessel out of harm's way?
2) Was the allocation of damages according to the comparative degree of fault proper?
3) Was the Jaguar's pulling of the Maya off the shoals properly classified as "salvage" or "towage"?

ANALYSIS: The Court of Appeals, for the Eight Circuit, affirming in part and vacating in part, held that the duty of the owner to provide a seaworthy vessel is absolute. This absolute duty is not qualified by an assumption that the crew will navigate the vessel out of harm's way and is defined by the vessel's intended voyage, the hazards likely to be encountered and the vessel's ability to withstand these hazards. The measure of a vessel's seaworthiness is not a function of her crew's skill and foresight in navigation. The behavior of L&L's crew was negligent, but the substantially understrength cable and obsolete stern winch (continues ...)