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In the Matter of the Complaint of Illinois Marine Towing, Incorporated, a Corporation, for Exoneration from, or Limitation of Liability United States Court of Appeals for the Seventh Circuit 498 F.3d 645 (Decided August 20, 2007)

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**CLAIMANTS ALLOWED TO PROCEED ON STATE COURT CLAIMS PURSUANT TO
“SINGLE CLAIMANT EXCEPTION” TO LIMITATION OF SHIPOWNER’S LIABILITY
ACT.**

The Court of Appeals affirmed the district court’s decision allowing a state-court action against a tug boat owner to proceed, while reserving the question of whether tug boat owner is entitled to limit liability under Limitation of Shipowners’ Liability Act.

In the Matter of the Complaint of Illinois Marine Towing, Incorporated, a Corporation, for Exoneration
from, or Limitation of Liability
United States Court of Appeals for the Seventh Circuit
498 F.3d 645
(Decided August 20, 2007)

This case arose from a marine collision which resulted in injuries and death. On May 21, 2004, Joshua Broughton, Tim Flemming, Stephen Turner and Eric Allen were passengers on a pleasure boat. The operator of the pleasure boat, Casey Barnick, was allegedly intoxicated. The pleasure boat crashed into Barge RMT 315, which was owned by Inland Marine Services, Inc., and had been transiting the Illinois River. The barge was being towed by the M/V HERMAN CROWN, owned by Illinois Marine Towing, Inc. (“IMT”). Pleasure boat passenger Allen died as a result of the collision, and the operator and other passengers were injured (collectively, “Claimants”).

Claimants filed suit in Illinois state court in 2004. IMT then filed a Complaint for Exoneration from, or Limitation of, Liability in The United States District Court for the Central District of Illinois pursuant to the Limitation of Shipowners’ Liability Act,¹ and Rule F of the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure in 2005. Pursuant to Rule F, the district court enjoined the institution or prosecution of other lawsuits concerning the casualty. Claimants promptly filed claims in district court against IMT.

Approximately one year after IMT initially sought limitation of liability, Claimants sought to resume litigation of their claims in state court and filed a “Joint Motion to Modify Stay” in the district court. Claimants attached several stipulations to the motion. The stipulations confirmed, among other things: (1) the exclusive jurisdiction of the district court over all limitation of liability issues, (2) that claimants waive any claim of *res judicata* respecting limitation of liability issues addressed in the state court, (3) that claimants would only seek pro-rata share of any potential limitation fund and no additional funds, and (4) the district court would have exclusive jurisdiction to determine the value of the limitation fund. The district court granted claimants motion. IMT appealed on the grounds that the stipulations were not a sufficient basis for modification of the injunction.

On appeal, the United States Court of Appeals for the Seventh Circuit reviewed the district court’s decision *de novo*. Although the standard of review of district court decisions under the Limitation Act is usually confined to abuse of discretion, in this instance, the Court of Appeals went on to review the substantive legal determination of the district court, addressing the issue of whether the stipulations could transform the multiple claims into a single claim within the Limitation Act.

After discussing the history and purpose of the Limitation Act, the Court of Appeals analyzed the tension between the Limitation Act and the savings to suitors clause.² The Limitation Act concursus requirement provides that the district court adjudicate, without a jury and for multiple claimants, the question of liability and whether limitation is appropriate. This raises a potential conflict with the

¹ 46 U.S.C. § 30505.

² 28 U.S.C. § 1331(1).

savings to suitors clause, which preserves other remedies available to suitors, including trial by jury in state court.³

The Seventh Circuit acknowledged two situations in which a district court can abstain from invoking its jurisdiction to determine liability and allow claimants to litigate in a state court: the “single claimant” exception to concursus and the “adequate fund exception.”⁴ Claimants here argued, and the district court agreed, that their stipulations transformed their multiple claims into a “single claim.” The single claimant exception to concursus provides that when a single claim is asserted against a shipowner there is no need for “peculiar and exclusive jurisdiction of an admiralty court.” A district court, therefore, “should allow the action to proceed in state court, while retaining exclusive jurisdiction over the question of limitation of liability.”⁵

The Court of Appeals noted several instances when multiple claimants were allowed to proceed in state court after the claimants had stipulated certain conditions.⁶ The Seventh Circuit found IMT’s reliance on the plurality in *Maryland Cas. Co. v. Cushing*⁷ to be misguided. While the concept of concursus is a central component of the Limitation Act, Supreme Court decisions as a whole have stressed that the primary purpose of the Act is to limit a vessel owner’s liability. The right to a concursus of claims in federal court is essentially preserved when multiple claimants provide adequate stipulations that ensure all limitation issues will be decided in federal court, and thus preserve the vessel owner’s right to address claims in a single proceeding.

Regarding the issue of whether the stipulations in the present case adequately protected IMT’s interests under the Limitation Act, the Court of Appeals considered requirements that have historically been imposed on claimants in order for their actions to proceed in state court, including: (a) that their claims be filed in the district court limitation proceeding; (b) that they concede sufficiency in the amount of the stipulation where a stipulation for value has been filed in lieu of the transfer of the ship to a trustee; (c) that they waive any claim of *res judicata* relevant to the issue of limited liability based on any judgment in state court; and (d) that they concede petitioner shipowner’s right to litigate all issues relating to limitation in the limitation proceeding.⁸

Here, the Court of Appeals held that claimants’ stipulations allowed the district court to retain jurisdiction over all limitation issues, while also permitting the claimants to pursue the question of liability in state court. The stipulations, moreover, were “deemed proper [to] ensure that IMT’s rights under the limitation act were adequately protected.”⁹

The court of appeals therefore affirmed the district court’s decision.

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³ See *Lewis v. Lewis & Clark Marine, Inc.* 531 U.S. 438, 445-55 (2001).

⁴ See *Langes v. Green*, 282 U.S. 531 (1931); *Lake Tankers Corp. v. Henn*, 354 U.S. 147 (1957).

⁵ *In re Illinois Marine Towing, Inc.*, 498 F.3d 645, 650 (7th Cir. 2007).

⁶ See *In re Holly Marine Towing, Inc.*, 270 F.3d 1086 (7th Cir. 2001); *Lewis*, 531 U.S. at 445-55 (2001); see also *Odeco Oil & Gas Co. v. Bonnette (Odeco I)*, 4 F.3d 401 (5th Cir. 1993); *In re Dammer & Vanderheide & Scheepvaart Maarts Christina B.V.*, 836 F.2d 750 (2d Cir. 1988); *Jefferson Barracks Marine Serv. Inc. v. Casey*, 763 F.2d 1007 (8th Cir. 1985); *In re S & E Shipping Corp.*, 678 F.2d 636 (6th Cir. 1982).

⁷ 347 U.S. 409 (1954).

⁸ *Illinois Marine Towing*, 498 F.3d at 653; *Dammers & Vanderheide* 836 F.2d at 758; *In re Garvey Marine, Inc.*, 909 F.Supp 560, 566 (N.D.Ill. 1995).

⁹ *Illinois Marine Towing*, 498 F. 3d at 653.