

## In re: Lockheed Martin Corporation United States Court of Appeals for the Fourth Circuit 503 F.3d 351 (Decided September 27, 2007)

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**RIGHT TO JURY TRIAL REMAINS IN AN INVERTED ADMIRALTY SUIT  
WITH RULE 9(h) CLASSIFICATION.**

**District Court was in error when it struck defendant’s request for a jury trial under the Seventh Amendment. The Court of Appeals held that a claimant retains a right to a trial by jury under the Seventh Amendment in an admiralty claim if there is concurrent jurisdiction over the suit in a court of law. Whether the claimant is a defendant simply because of losing the filing “race” is irrelevant to the preservation of the right to a jury trial.**

In re: Lockheed Martin Corporation  
United States Court of Appeals for the Fourth Circuit  
503 F.3d 351  
(Decided September 27, 2007)

In June 2001, Lockheed Martin Corporation (“Lockheed”) submitted a claim to its insurer, National Casualty Company (“National”), for a vessel which was damaged at sea. In April 2005, Lockheed informed National that it intended to file suit for breach of contract by June 29, 2005, unless National acknowledged that the insurance policy articulated a six-year statute of limitations. One week before Lockheed’s deadline, National preemptively filed for declaratory judgment. National sought a declaration that Lockheed’s claims were not filed before the expiration of the limitations defined in the policy, the claims were non-jury admiralty claims, or, in the alternative, sought a declaration of the amount of Lockheed’s claim.

In response, Lockheed filed an answer and asserted a counterclaim seeking payment for the damages to the ship and requested a jury trial. Lockheed later filed a motion for a judgment on the pleadings, asserting that the declaratory relief sought by National should be dismissed as Lockheed’s claim was timely under the policy and that National’s proposed alternate relief, a declaration of amount of damages, should be dismissed in favor of a jury trial to determine the amount of damages.

The district court dismissed the first claim by National, Lockheed’s filing for damages being timely, and held that Lockheed did not have a right to jury trial. The court, however, failed to dismiss National’s request for a declaration of damages. In response to the decision, Lockheed filed a petition for writ of mandamus in the Fourth Circuit.

The court addressed National’s concern pertaining to the suitability of writs of mandamus directed to the Court of Appeals prior to a final judgment. Although writs are considered an extreme measure and may not be used in substitution of appeal, the court held Lockheed’s writ was an appropriate method to challenge the district court’s denial of a jury trial.<sup>1</sup>

In analyzing the Seventh Amendment, the court opined that there is no constitutional right to a jury trial in maritime claims. In admiralty, however, 28 U.S.C. §1333 complicates this rule because the statute states that district courts have original jurisdiction over admiralty cases, “saving to suitors in all case all other remedies to which they are otherwise entitled.” The court held that an admiralty plaintiff, who chooses to proceed “at law” in state or federal court, has the right under the savings-to-suitors clause to demand a jury trial.<sup>2</sup>

In this case, National argued that it brought its claims in admiralty and, therefore, was not subject to jury trial. Lockheed, in contrast, argued that its counterclaims were *in personam*, the parties were diverse, the amount in controversy satisfied the requirements for original jurisdiction, and a jury trial was proper. The court looked to *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 79 S.Ct. 948 (1959)

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<sup>1</sup> Kerr v. United States District Court, 426 U.S. 394, 402, 96 S.Ct. 2119 (1976); In re: Catawba Indian Tribe of South Carolina, 973 F.2d 1133, 1136 (4th Cir. 1992).

<sup>2</sup> Madrugá v. Superior Court of California, 346 U.S. 556, 560-61, 74 S.Ct. 298 (1954).

for guidance. *Beacon* expressed that the right to jury trial turned on whether the right would have existed if the action were independent of the motion for declaratory judgment.

National argued Lockheed's claim was a counterclaim "in-name-only" and merely contained language opposing its declaratory judgment. National also claimed *Beacon* did not apply because under admiralty cases, there is no right to a jury trial as per the Seventh Amendment.

The court, however, did not find National's "oversimplification" argument persuasive, noting the existence of other maritime cases where a right to jury trial was preserved even where the court had a separate basis for federal jurisdiction. Admiralty law may govern the disposition of the claim, but does not necessarily preclude the right to a jury trial.<sup>3</sup>

A plaintiff possesses the right to choose whether the claim will proceed in common law (with a jury) or in admiralty (without a jury). Courts are split on whether Rule 9(h), which provides admiralty designation, impedes the right to a jury trial created by the Seventh Amendment. The Fourth Circuit, herein, held that a right to jury trial must be preserved wherever possible.<sup>4</sup>

The court refused to address National's argument that Lockheed's responses were not true counterclaims, saying that Lockheed's right to a jury trial survived despite the procedural nature of Lockheed's response. Again, likening this case to the facts of *Beacon*, the court stressed that the only reason this case was filed as a Rule 9(h) was based solely on National's winning the race to the courthouse. Had Lockheed filed first, there would be a breach of contract claim "at law" for the failure by National to pay under the policy. Moreover, since federal law and admiralty law have concurrent jurisdiction over such claims, there is a Seventh Amendment entitlement to a jury trial.

Overall, the court held that although the Seventh Amendment is generally not applicable to an admiralty claim, it can be applied to claims where courts of law have concurrent jurisdiction. Just because the case was inverted, and the suit brought by the party who would be a defendant at common law, does not inhibit the right of the then defendant to recover and utilize its right to a jury trial. The court granted the writ of mandamus and remanded the case, directing the district court to proceed with a jury trial.

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<sup>3</sup> *Atlantic and Gulf Stevedores, Inc. v. Ellerman Lines, Ltd.*, 369 U.S. 355, 82 S.Ct. 780 (1962).

<sup>4</sup> *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 79 S.Ct. 948 (1959).