Keeping the Richardson Rule Afloat: *Why the Shipowner's Limitation of Liability Act May Confer an Independent Basis of Admiralty Jurisdiction*

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I. Introduction

A vessel floating in a navigable waterway, but confined to a coffer-dam, suffered an explosion that ripped a hole in its hull beneath the waterline causing the vessel to sink at its anchorage in a mere twelve feet of water. There were several passengers aboard who suffered injuries. The passengers sued the vessel owner for damages.

The vessel owner petitioned under Supplemental Rule F of the Federal Rules of Civil Procedure to limit its liability pursuant to the Shipowner's Limitation of Liability Act of 1851 (the "Limitation Act") for any liability that it may have incurred in connection with the sinking of its vessel. 46 U.S.C. §§ 30501-12. The Limitation Act allows a vessel owner to limit his or her liability in the case of an incident of loss or injury to the post-casualty value of the vessel pending freight. *Id.*

The Limitation Act requires that there be a vessel owner, and that the vessel owner proves he or she had no knowledge or participation in the negligent act or omission that resulted in the loss. Congress enacted the Limitation Act to encourage investments in shipbuilding and protect the American Merchant Marine. While Congress did not explicitly include a jurisdictional statement in the Limitation Act, the United States Supreme Court arguably interpreted the Limitation Act to confer an independent basis of admiralty jurisdiction and has not overturned its ruling on the issue since 1911. *See Richardson v. Harmon*, 222 U.S. 96, 116 (1911).

II. *Richardson v. Harmon* and The Richardson Rule

Although the Supreme Court has not expressly ruled on the issue, its decisions impliedly support the conclusion that the Limitation Act may provide an independent basis of admiralty jurisdiction. In *Richardson v. Harmon*, the vessel owner sought to limit liability for what was then a non-maritime tort.[1] The district court dismissed the limitation petition for want of admiralty jurisdiction, but the Supreme Court reversed.

In 1911, the Supreme Court held that the Limitation Act gave the district court sitting in admiralty the jurisdiction to determine a nonmaritime tort claim as part of the limitation proceeding.[2] In so holding, *Richardson* overruled the previous decision of *Ex parte Phenix Insurance Co.*, which held that a vessel owner's limitation petition lacked jurisdiction because the underlying claims were non-maritime torts.[3]

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[1] The Admiralty Extension Act (the "AEA"), 46 U.S.C. § 30101, would make the tort at issue in *Richardson* subject to admiralty jurisdiction under current law. However, at the time *Richardson* was decided, the AEA was not yet in existence. Some District and Circuit courts have since held or implied that *Richardson* was subsumed after Congress' enactment of the AEA; *See* Discussion on The Admiralty Extension Act, *infra*.

[2] *See Richardson*, 222 U.S. at 116.

[3] *See Ex parte Phenix Insurance Co.*, 118 U.S. 610 (1886).

In *Richardson*, a vessel owner sought to limit his liability for a claim arising from an allision between the steam barge 'Crete' and a railroad drawbridge.[4] At that time in American jurisprudence, admiralty jurisdiction in tort was determined by the locality test, which required the incident to occur on navigable water for admiralty jurisdiction to exist.[5] With no other avenue for admiralty jurisdiction, the Supreme Court in *Richardson* found that the Limitation Act confers an independent basis of admiralty jurisdiction when the underlying claim is for a non-maritime tort.[6] Thus, the Richardson Rule was fashioned by the Supreme Court in 1911, reasoning that the Rule was sound with congress' intent behind the Limitation Act.[7]

III. The Admiralty Extension Act and The Richardson Rule

There's not necessarily a circuit split on this issue. In fact, nearly every circuit to visit this issue has either held, implied, or reasoned that *Richardson* has been codified and subsumed by the Admiralty Extension Act and/or that the Limitation Act does not confer an independent basis of admiralty jurisdiction.[8] The Admiralty Extension Act ("AEA") provides:

> The admiralty and maritime jurisdiction of the United States shall extend to and include all cases of damage or injury, to person or property, caused by a vessel on navigable water, *notwithstanding that such damage or injury be done or consummated on land*.[9]

In *Seven Resorts, Inc. v. Cantlen*, the Ninth Circuit held that the AEA codified the holding in *Richardson* simply because the facts of the case involved damage or injury that was consummated on land.[10] However, that reasoning is arguably invalid. A comparison of both the Richardson Rule and the legislative history of the AEA show the two are completely unrelated.

Dissecting the reasoning of *Richardson* reveals that the Supreme Court grounded its holding in the ability of the Limitation Act to confer an independent basis of admiralty jurisdiction.[11] The *Richardson* Court was faced with no other avenue of fulfilling Congress' intent to protect vessel owners with the Limitation Act because, at that time, admiralty jurisdiction was determined by a pure locality test.[12] Therefore, the *Richardson* Court accurately reasoned that the act confers an independent basis of admiralty jurisdiction when the underlying

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[4] *See Richardson*, 222 U.S. 96 at 100.
[5] *See DeLovio v. Boit*, 7 Fed. Cas. 418, 443 (C.C.D. Mass. 1815).
[6] *See generally Richardson*, 222 U.S. 96.
[7] *Id.* at 104-6.
[8] *See, e.g; Seven Resorts, Inc v. Cantlen*, 57 F.3d 771 at 773 (9th Cir. 1995) (The 9th Circuit reasoned that aside from being a historical anomaly, *Richardson's* holding has been codified in the 1948 Admiralty Extension Act); *Guillory v. Outboard Motor Corp.*, 956 F.2d 114 (5th Cir. 1992); *David Wright Charters Serv. v. Wright*, 925 F.2d 783 (4th Cir. 1991); *Three Buoys Houseboat Vacations v. Morts*, 921 F.2d 775 (8th Cir. 1990), *cert. denied*, 502 U.S. 898 (1991); *55 Lewis Charters, Inc. v. Hukins Yacht Corp.*, 871 F.2d 1046 (11th Cir. 1989).
[9] 46 U.S.C. § 30101 (emphasis added).
[10] *See, e.g; Seven Resorts, Inc.*, 57 F.3d 771 at 775 (9th Cir.)
[11] *See Richardson*, 222 U.S. 96 at 106.
[12] *Id.; see DeLovio v. Boit*, 7 Fed. Cas. 418 (C.C.D. Mass. 1815).

claim is for a *non-maritime tort*.[13] The *Richardson* Court reasoned that its holding effectuated the purpose of the Limitation Act by,

> Harmoniz[ing] with the policy of limiting the owner's risk to his interest in the ship in respect of *all claims* arising out of the conduct of the master and crew, whether the liability be strictly maritime or from a *tort non-maritime*, but leaves him liable for his own fault, negligence, and contracts.[14]

The Court focused on the Limitation Act in fashioning the Richardson Rule, not on the factual circumstances of a vessel causing damage to land.[15] In fact, the exact language from the holding in *Richardson* reads "whether the liability be strictly maritime or from a tort non-maritime," and mentions nothing about damage to land.[16] The AEA was never intended to codify the holding in *Richardson*.

Congress' true purpose behind the AEA is apparent in the Senate Committee Report for the Admiralty Extension Act (the "Report").[17] The Report discusses a total of seven Supreme Court decisions, none of which is *Richardson*.[18] The Report does, however, focus on a Supreme Court case, *Martin v. West*, that contains nearly identical facts as *Richardson*, but an entirely different outcome, and was decided only two weeks prior to the Supreme Court's fashioning of the Richardson Rule.[19]

In *Martin*, a steam-barge allided with a structure on land, damaging it, almost identical as to what occurred in *Richardson*.[20] In *Martin*, however, the vessel owner did not invoke the Limitation Act.[21] Unlike in *Richardson*, the *Martin* Court found no admiralty jurisdiction.[22] *Martin* was problematic because had it been decided after the AEA's enactment, the outcome would have been different.[23] Unlike *Richardson*, which is grounded in the Limitation Act and is not defined by the AEA's limited purpose of extending admiralty jurisdiction to damage consummated on land.[24] According to one commentator:

> If the AEA eliminated the Limitation Act's ability to independently support admiralty jurisdiction, then some vessel owners would be left subject to obligations arising from non-maritime torts such as collisions on non-navigable waters and fires that take place while a vessel is undergoing repairs—a result that seems incompatible with

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[13] *Id.*
[14] *See Richardson*, 222 U.S. at 106. (emphasis added.); *See* Discussion of *Richardson v. Harmon* and The Richardson Rule, *supra*.
[15] *Id.*
[16] *Id.*
[17] S. REP. 80-1593, S. Rep. No. 1593 (1948).
[18] *Id.* at 4.
[19] *Id.; see Martin v. West*, 222 U.S. 191, 192 (1911).
[20] *Id.* at 193.
[21] *Id.; see generally Richardson*, 222 U.S. 96.
[22] *Id.; Martin*, 222 U.S. at 193.
[23] *Id.*
[24] 46 U.S.C. §§ 30101-30106 (LexisNexis 2007).

the Act's purpose.[25]

The AEA was not concerned with the Limitation Act, but instead with the application of maritime tort jurisdiction in allision cases.[26] The AEA explains that admiralty jurisdiction exists "notwithstanding that such damage or injury be done or consummated on land."[27] Whereas the broad language of the Limitation Act is interpreted by the Supreme Court to confer admiralty jurisdiction "whether the liability be strictly maritime or from a tort non-maritime."[28] Congress charted the Limitation Act and the AEA on the same course–to protect all vessel owners–but set each Act on a different tack to reach this purpose.

IV. A Note on *Sisson v. Ruby*

Relying on dicta in *Sisson v. Ruby*, some federal circuit courts have reasoned that footnote one from *Sisson* has impliedly overturned the holding of *Richardson*.[29] In a footnote, the Supreme Court noted that whether the Limitation Act confers an independent basis of admiralty jurisdiction is an "open question."[30] However, the *Sisson* Court had no need to visit the question because the Court found admiralty jurisdiction under the separate, independent basis of admiralty jurisdiction under 28 U.S.C. § 1333(1), (the "nexus test" for maritime torts). In footnote one, the Court stated,

> Sisson has also argued throughout this litigation that the Limited Liability Act . . . provides an independent basis for federal jurisdiction . . . We need not decide which party is correct, for even were we to agree that the Limited Liability Act does not independently provide a basis for this action, § 1333(1) is sufficient to confer jurisdiction.[31]

The footnote from *Sisson* is merely dicta and stands for the Supreme Court's recognition that a separate, independent basis of admiralty jurisdiction, § 1333(1), could confer admiralty jurisdiction.[32] Thus, the Limitation Act issue was merely rendered moot in that case, leaving *Richardson* and its Rule undisturbed.[33]

V. Conclusion

The Richardson Rule, the rule that provides that the Limitation Act confers an independent basis of admiralty jurisdiction over claims for non-maritime torts, should be

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[25] *See* Amie L. Medley, Note, *A Sea of Confusion: The Shipowners Limitation of Liability Act as an Independent Basis for Admiralty Jurisdiction*, 108 Mich. L. Rev. 229, 246 (2009).
[26] 46 U.S.C. §§ 30101-30106 (LexisNexis 2007).
[27] *Id.*
[28] *See Richardson*, 222 U.S. at 106.
[29] *See Sisson v. Ruby*, 497 U.S. 358, 375 n.1 (1990)
[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] *Id.*

read in harmony with the Limitation Act.[34] This would affect Congress' purpose behind the Limitation Act–to protect all vessel owners.[35] Critics against the Limitation Act and the viability of *Richardson* rest on invalid reasoning and ill-informed interpretations of the purpose of the Limitation Act.[36]

While Congress did not explicitly include a jurisdictional statement in the Limitation Act, the United States Supreme Court has interpreted the Act to confer an independent basis of admiralty jurisdiction and has not overturned its ruling on the issue since 1911. By disregarding the standing precedent of *Richardson*, the federal circuit courts have laid down a confused set of decisions that do nothing to clarify and create uniformity in U.S. admiralty jurisprudence. No longer shall federal circuit courts be able to muddy the waters surrounding the Richardson Rule and its progeny.

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[34] *Id.* (Reading the act in harmony with the Richardson Rule not only effectuates Congress' intent to protect all vessel owners with the act, but also is fully supported with the reasoning in the *Richardson* decision.)

[35] *Id.*

[36] *See, infra.*, pp. 2-4.

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During his time in law school, Mr. Staph focused his studies on Admiralty and Maritime practice where he earned CALI awards for top marks in Admiralty Law, Marine Insurance, Maritime Liens, and Land-Use Planning and Urban Sustainable Development. During law school, Mr. Staph also was a member of the RWU Law Admiralty Moot Court Team during both his 2L and 3L years. In his 2L year, his team competed in Seattle, Washington, and in his 3L year, his team won the national championship at the 26th Annual Judge John R. Brown Admiralty Moot Court Tournament in Charleston, South Carolina. Mr. Staph's moot court team also collectively won an award for Best Brief in the Competition.

While not engaged in his law school studies, Mr. Staph interned for the Honorable Judge John J. McConnell in the United States District Court for the District of Rhode Island where he drafted multiple bench memorandums, orders, and opinion recommendations. He also was a research assistant to Professor Louise Ellen Teitz where he conducted research projects on international law, international business transactions and complex issues concerning conflicts of laws. Mr. Staph was also a legal extern for Falvey Insurance Group in North Kingstown, Rhode Island, where he worked alongside Falvey Insurance Group's general counsel on projects regarding marine pollution issues, cargo insurance disputes, personal injury claims.

Spending nearly three years at Betancourt, Van Hemmen, Greco & Kenyon LLC in Red Bank, New Jersey, Mr. Staph primarily focused on personal injury and wrongful death cases as well as complex cases dealing with marine construction, vessel damage, and advancements for maritime liens. After departing from Betancourt, Van Hemmen, Greco & Kenyon LLC, Mr. Staph joined Hill Rivkins LLP in early 2022 and now focuses his practice on marine insurance defense and cargo subrogation.