RECENT DEVELOPMENTS IN SALVAGE LAW

MARITIME LAW ASSOCIATION, SALVAGE COMMITTEE, SPRING 2014

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MARTIN v. ONE BRONZE ROD, 2014 WL 345905 (M.D. Fla. Jan. 30, 2014). *Rare award of title to Bronze Rod awarded in favor of salvor.*[1]

Plaintiff/salvor Francisco Martin ("Martin") arrested a Bronze Rod ("the Rod") and requested a declaratory judgment seeking either title to or proceeds from the Rod under 33 USC § 384 (providing for the condemnation of a captured piratical vessel brought into a United States port) and the general maritime law governing piratical forfeitures, the common law of finds, or the law of salvage.

The court found that Martin's complaint did not show a sufficient nexus to piratical cargo to support a warrant of arrest or judgment on the pleadings under the law governing piratical forfeitures. The court also rejected the "finds" theory since Martin was not able to show that the Rod was un-owned or abandoned.

However, the court found that Martin's complaint supported the salvage claim because: (1) there was a marine peril because the Rod was buried in the bottom sediments of the river and exposed to natural elements (corrosion or oxidation) and the risk of being struck by vessels; and (2) Martin successfully removed the Rod from the soil and water column and transferred a portion of the Rod to the court for a symbolic arrest which was found to be a voluntary endeavor and successful removal of the object from peril.

The court recognized that an award of title to the salvaged property is unusual, but relying on *Treasure Salvors, Inc. v. The Unidentified Wrecked & Abandoned Sailing Vessel, 569 F.2d 330 (5th Cir. 1978)*, noted that in certain circumstances, including where the salvor's expenses exceed the value of the salvage property, it may be appropriate. Therefore, because Martin had conducted extensive academic and field research and expended substantial money, time, and effort to locate, survey, photograph, and recover the Rod, the court granted Martin's request to award him title to the Rod as compensation for his services.

NORTHEAST RESEARCH, LLC v. ONE SHIPWRECKED VESSEL, 729 F.3d 197 (2d Cir. Sept. 5, 2013). *Abandonment pursuant to the Abandoned Shipwreck Act inferred from circumstantial evidence and need not be proved by express or explicit statements of intent to abandon.*[2]

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Plaintiff/Appellant Northeast Research, LLC ("Northeast") discovered an early nineteenth century wooden schooner (the "Dunkirk Schooner") submerged in New York waters of Lake Erie and filed an *in rem* action seeking an award under admiralty law as the finder or salvor of the vessel. The State of New York intervened, asserting title to the sunken vessel under New York law and the Abandoned Shipwreck Act, 43 U.S.C. s. 2101 *et seq*. ("ASA"), which vests title to abandoned shipwrecks in the state on whose submerged land the shipwreck rests. The district court granted summary judgment in favor of New York and denied Northeast's motion for summary judgment seeking a salvage award. Northeast appealed, seeking review of the district court's holding that New York had title to the wreck pursuant to the ASA. On appeal, Northeast conceded that the Dunkirk Schooner is a historically significant shipwreck embedded in the submerged lands of New York, but disputed that it was "abandoned" within the meaning of the ASA.

In its analysis, the Second Circuit noted that the ASA effectively displaces the maritime law of salvage and the law of finds that otherwise govern shipwrecks, the practical effect being that if a shipwreck is found in the submerged lands of a State, a finding of abandonment leaves the finder with neither title nor a salvage award. After an extensive review of case law on abandonment, the court next concluded that for purposes of the ASA, abandonment may be inferred from circumstantial evidence (provided such evidence is sufficiently strong to satisfy the clear and convincing burden), and need not be proved by express or explicit statements of intent to abandon. Applying the court's analysis to the evidence of record, the court concluded that New York demonstrated that the shipwreck had been abandoned within the meaning of the ASA. The requisite elements of the ASA having been met, the court held that the district court's dismissal of Northeast's case on summary judgment was proper and that title to the Dunkirk Schooner vested in the State of New York.

SEA HUNTERS, LP v. S.S. PORT NICHOLSON, 2013 WL 1789740 (D. Me., Apr. 26, 2013*). Court concludes it has jurisdiction to compel discovery regarding ownership of sunken vessel prior to completion of salvage operations.*[3]

Sea Hunters, LP ("Sea Hunters"), the salvor-in-possession of the wreck site of the vessel it identified as the S.S. PORT NICHOLSON ("PORT NICHOLSON"), a cargo ship torpedoed and sunk by a German submarine while en route to New York in 1942, served discovery requests upon the Secretary of State for Transport of the United Kingdom ("UK") regarding UK's purported ownership of the PORT NICHOLSON. UK sought a protective order with respect to Sea Hunters' discovery requests. UK contended the discovery sought by Sea Hunters was premature, and, therefore, irrelevant, because Sea Hunters sought information on the ownership of the PORT NICHOLSON, which had not yet been salvaged.

First, the court rejected UK's argument that the discovery sought was irrelevant because Sea Hunters had not yet successfully salvaged the PORT NICHOLSON. The court noted that while completion of salvage operations is required prior to an award, "it does not follow that the exploration or adjudication of a claim of ownership *necessarily* must await the completion of salvage operations." The court found UK's claim of ownership, together with its express notice that it did not consent to Sea Hunters' salvage services, had a "chilling effect" on the salvage operation. This, according to the court, was a "sufficiently palpable impact" so as to render the discovery regarding UK's claim of ownership relevant.

Next, the court rejected UK's argument that the court lacked jurisdiction to compel UK to respond to the discovery requests. The court explained it may exercise quasi *in rem* jurisdiction over the *res* to

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adjudicate rights among the parties over whom the court has personal jurisdiction up to the value of the *res*. The court found that UK's restricted appearance in the case pursuant to Rule E(8) of the Supplemental Rules for Admiralty or Maritime Claims, neither "prevents this discovery nor strips the court of jurisdiction to compel it."

Additionally, the court found that it could properly exercise "*in rem* jurisdiction by constructive possession," which allows for a determination of an exclusive right to salvage a wreck in international water. Relying on *Treasure Salvors, Inc. v. The Unidentified Wrecked & Abandoned Sailing Vessel*, 569 F.2d 330 (5th Cir. 1978), the court noted that *in rem* jurisdiction by constructive possession may be exercised over "claims of purported owners who have rejected third parties' salvage efforts," and that by expressly notifying Sea Hunters that it did not consent to the operation, UK interfered with the operation and precluded Sea Hunters from obtaining specific property from the abandoned vessel. Under such circumstances, the court concluded it could properly exercise *in rem* jurisdiction by constructive possession jurisdiction over UK (within the limits of its restricted appearance) in order to compel discovery related to ownership of the PORT NICHOLSON.

SEA HUNTERS, LP v. SS PORT NICHOLSON, 2013 WL 5435636 (D. Me. Sept. 29, 2013). *Intervenor qualified as "party" with standing to mount a Rule 60(b) challenge of court order appointing salvor the exclusive salvor-in-possession.*[4]

Mission Recovery, LLC ("Mission Recovery") filed a motion to intervene in the salvage action pursuant to Federal Rule of Civil Procedure Rule 24 as of right or, in the alternative, permissibly, and also claiming standing pursuant to Federal Rule of Civil Procedure 60 to challenge the court's order appointing Sea Hunters the exclusive salvor-in-possession.

Examining first Mission Recovery's basis to intervene as of right, the court found that Mission Recovery's "significant steps" toward salvage of the PORT NICHOLSON, including entering into a separate salvage agreement with a salvage company and receiving substantial financial contributions from investors to fund it, demonstrated a direct, protectable interest in the litigation as required by Rule 24. The court further noted the clashing interests of Mission Recovery and the existing parties, concluding that Mission Recovery had met the minimal showing that the representation afforded by the existing parties to the litigation was inadequate.

Next, the court concluded that Mission Recovery met the standard for permissive intervention, noting that Mission Recovery's motion was timely, subject matter jurisdiction was proper, and that Mission Recovery's salvage claim shares with the existing action common questions of law and fact. The court further noted that if made a party to the ongoing salvage action, Mission Recovery was likely to contribute in a significant way to the underlying factual and legal issues.

Finally, quoting extensively from *R.M.S. Titanic, Inc. v. Wrecked & Abandoned Vessel*, 920 F. Supp. 96, 98 (E.D. Va. 1996), the court found that Mission Recovery qualified as a "party" for purposes of a Rule 60(b) challenge because actions *in rem* are designed to adjudicate rights in specific property against all of the world, that judgments in such cases are binding to the same extent, and if the whole world are parties bound by the judgment, "the converse should also be true: the whole world are parties who may request relief from the judgment." Alternatively, the court held it had the power to reexamine its prior order *sua sponte*. Therefore, having found sufficient any of the three grounds for relief asserted by

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Mission Recovery in its motion to intervene, the court granted the motion and directed Mission Recovery to file a claim in the action.

ODYSSEY MARINE EXPLORATION, INC. v. UNIDENTIFIED, SHIPWRECKED VESSEL, 512 Fed. Appx. 890 (11th Cir. Mar. 11, 2013). *Eleventh Circuit affirms district court's dismissal of researcher's claims against Odyssey Marine relating to the MERCHANT ROYAL where no case or controversy yet exists.*[5]

Keith Bray, a shipwreck researcher, sought rescission of a contract that Bray alleged Odyssey Marine Exploration ("Odyssey"), fraudulently induced him to enter. Bray alleged he entered into an oral agreement with Odyssey, the terms of which called for him to give Odyssey his research related to the location of the MERCHANT ROYAL, a British ship that sank off the English coast in 1641, in exchange for a percent value from the recovery of that vessel and other costs. Later, Odyssey informed Bray that it had no plans to search for the *Merchant Royal* and executed a written agreement in which Odyssey paid Bray a cash sum as "payment in full" for Bray's research file. After executing the written contract, Bray learned that Odyssey had been searching for the *Merchant Royal*, and that the company had found a sunken vessel it believed to be the *Merchant Royal*. Odyssey initiated *in rem* proceedings to claim ownership of the vessel, and Bray moved to intervene, seeking to rescind the written agreement and reinstate the original oral agreement on the grounds of mutual mistake or fraud in the inducement. However, following preliminary proceedings, it became apparent that the wreckage was not the *Merchant Royal*, but instead a different, yet-to-be identified vessel. Bray's claims were subsequently dismissed and Bray appealed.

On appeal, the Eleventh Circuit affirmed the district court's dismissal of Bray's claims. The court affirmed the dismissal of Bray's claim for mutual mistake on the grounds that it is a defense and is to be used in avoidance of a contract. Bray's claim for rescission was dismissed because he failed to plead an offer to return all of the benefits he derived as required.

The court held that Bray's claim for fraud in the inducement was properly dismissed for failure to plead an actual injury. Bray alleged he was injured by being unable to sell his contingent interest in the MERCHANT ROYAL that existed under the original agreement. The court reasoned that because he did not allege facts to show the existence of a market for such a speculative commodity or that someone would have paid more, the pleading was insufficient to state a claim.

Finally, the court affirmed dismissal of Bray's claim seeking a declaration of rescission of the written agreement and reinstatement of the oral agreement for failure to present an actual case or controversy. The court reasoned that to give an opinion now would be the equivalent of an advisory opinion because the *Merchant Royal* had yet to be found and Odyssey had yet to refuse to pay pursuant to the oral agreement.

ODYSSEY MARINE EXPLORATION, INC. v. The UNIDENTIFIED SHIPWRECKED VESSEL, 2013 WL 5408413 (M.D. Fla. Sept. 25, 2013). *Bad faith salvage claim and subsequent actions of salvor warranted award of attorney's fees, costs, and sanctions relating to litigation costs of true owner.*[6]

The ongoing saga of Odyssey's salvage of the NUESTRA SEÑORA DE LAS MERCEDES, a 19th-century Spanish frigate shipwrecked off the coast of Portugal, continues with this ruling by the court on the

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Kingdom of Spain's motion to recover attorney's fees and litigation costs associated with the defense of its sovereign naval property.

Spain filed a motion to recover attorney's fees and costs based upon multiple bad faith acts of Odyssey during litigation. In support of its motion, Spain cited Odyssey's intentional misidentification of the shipwreck to the court, withholding of evidence regarding identity and existence of the wreck, and continued disregard for the orders of both the magistrate and district judges during the proceedings.

Finding in favor of Spain, the court ruled that Odyssey purposefully obscured information from the outset of litigation in an effort to obstruct the court, and in an attempt to defeat the rightful claims of Spain, resulting in significant litigation which would not have happened if not for Odyssey's bad faith abuses and deceptions. The court awarded Spain reduced attorney's fees and costs and further imposed awards for contempt and sanctions.

TOW TELL MARINE SERVICE, LLC v. M/V 28' SPENCER, 2013 WL 6212192 (S.D. Fla. Nov. 27, 2013) *Potential spill of 250 gallons of gasoline and oil not "substantial physical damage" under Article 14 of the Salvage Convention.*[7]

This action arose from Tow Tell Marine's salvage of the vessel, which capsized near the coast of Miami-Dade, FL after encountering high seas. In its complaint for a salvage award against the vessel and the vessel owner, Tow Tell Marine alleged that by righting the vessel, de-watering the hull and safely towing the vessel, it prevented the release of approximately 250 gallons of gasoline and oil into the surrounding ecosystem, and was therefore entitled to "special compensation" under Article 14 of the 1989 International Convention of Salvage.

The court noted that although a salvor is entitled to "special compensation" under Article 14 where the salvor has carried out salvage operations of a vessel which has "threatened damage to the environment," Article 1 of the Salvage Convention defines "damage to the environment" as "*substantial* physical damage" to the environment caused by "pollution, contamination . . . or similar *major* incidents." The court interpreted the drafters' emphasis on "major" and "substantial" to mean the drafters were not concerned with "small-scale" pollution, but only events of a more widespread nature, and that while it was reasonable to believe the grounding and subsequent leakage of the vessel would have caused some environmental damage, such damage was not the type of damage entitling a salvor to special compensation under Article 14. Accordingly, the court dismissed Tow Tell Marine's claim for special compensation. The court further noted the complaint stated the elements of a salvage claim, but that Tow Tell Marine was entitled to a salvage award only for the "value of the res as it was recovered," (approximately $500.00), even if Tow Tell Marine's expenses exceeded that amount.

GIRARD v. M/Y "QUALITY TIME," 2014 WL 495739 (S.D. Fla., Feb. 5, 2014). *12% award to professional salvor for night operation involving diver.*[8]

Salvors brought suit to determine an award for salvaging a 42' recreational vessel that struck a submerged object and began taking on water near Key West, Florida.

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First, the court determined that the salvage of the QUALITY TIME was a "low level" salvage (generally warranting a 5-10% award of vessel's post-casualty value) because no special skills or risks out of the ordinary were faced by the salvors. However, because the salvage occurred at night and required a diver to enter the water, the court found that the salvors were entitled to an award of 10% of the vessel's post-casualty value. In addition, the court awarded a 2% uplift because the salvors were professional salvors, entering a final award of approximately $17,000 (12% of $140,800.45, the post-casualty value of the vessel).

IN RE MIELKE, 2013 WL 5913681 (E.D. Mich. Nov. 1. 2013). *Relationship between salvor and law enforcement irrelevant to inquiry of whether operation is "voluntary" for purposes of establishing elements of salvage claim.*[9]

St Clair Salvage ("St Clair") sought partial summary judgment seeking a salvage award in connection with St Clair's recovery of the MIELKE WAVE, the subject of a limitation of liability action filed by the vessel's owner ("Mielke") following a collision with another vessel on Lake St. Clair, Michigan. In opposition to St Clair's pure salvage claim, Mielke argued that the salvage of the MIELKE WAVE was not voluntary (a requisite element to a salvage claim) because the salvor worked in an "on-going special relationship" with local law enforcement in that St Clair agreed to salvage vessels in certain areas of Lake St. Clair. The court disagreed, stating first that Mielke failed to prove the alleged "on-going" relationship, and second, the determination of whether the salvage services are "voluntarily" rendered turns on the existence of a binding agreement between the salvor and the owner of the vessel; thus rendering the relationship between the salvor and law enforcement irrelevant to the inquiry.

Having determined that St Clair could prove the elements of a pure salvage claim, the court next turned to *The Blackwall* factors in fashioning an appropriate award, finding that $3,000.00 represented the reasonable and accurate salved value of the MIELKE WAVE, and that in accordance with salvage law, the salvage award could not exceed that amount.

IN THE MATTER OF THE ABRITRATION BETWEEN TOWBOAT NANTUCKET SOUND, INC. AND CAPT. RODNEY VAN TRENT FARNSWORTH, Final Award, March 18, 2014. *Valid salvage agreement executed despite owner's allegations of intimidation and emotional duress.*[10]

This arbitration arose out of a dispute between Towboat Nantucket Sound, Inc. (TNS) and Rodney van Trent Farnsworth, ("Farnsworth") following the grounding and recovery of the M/Y AURORA ("AURORA"), a 56' power catamaran, off Weepecket Islands, Massachusetts. TNS was notified by Farnsworth's insurer of Farnsworth's request for assistance and dispatched two vessels in response.

The panel found that despite Farnsworth's allegations and arguments of duress, including Farnsworth's initial objections to signing the salvage form, but then relenting because of alleged intimidation of physical harm, destruction of the AURORA, and emotional duress, a valid salvage agreement was executed between Farnsworth and TNS.

Turning to the salvage award, the panel unanimously decided that TNS established by a preponderance of the evidence that a marine peril existed, that TNS voluntarily rendered salvage

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services in response to Farnsworth's request for immediate assistance, and that TNS's efforts were successful in salving the AURORA and entitled TNS to a salvage award of $50,000.00 (approximately 7% of $689,972.00, the undisputed value of the AURORA), plus interest, due under the contract for its efforts. The panel rejected Farnsworth's claims for loss of use and expenses, finding a lack of evidentiary support for the contentions.

STARR INDEMNITY & LIABILITY CO. v. CONTINENTAL CEMENT CO., LLC, 2013 WL 1442456 (E.D. Mo. Apr. 9, 2013). *Letters from Corps of Engineers ordering removal of sunken barge satisfied coverage requirement for purposes of Continental's P & I claim for wreck removal coverage.*[11]

This case arises out of a dispute over liability and indemnity coverage for the sinking and removal of the MARK TWAIN, a cement barge that sank in the Mississippi River on February 7, 2011 at the defendant's dock near St. Louis, Missouri. Continental sought partial summary judgment that letters from the U.S. Army Corps of Engineers ordering the removal of the sunken barge satisfied the coverage requirement that wreck removal be "under statutory power or otherwise pursuant to law." The court found that Continental was entitled to indemnity for wreck removal because "a reasonable owner, fully informed, would conclude that failure to remove would likely expose the owner to liability imposed by law based upon the language in the Corps' letters." The court went on to deny the summary judgment motion due to other coverage defenses asserted by Starr.

IN THE MATTER OF THE ABRITRATION BETWEEN SEA TOW SHINNECOCK/MORICHES and M/Y BITE ME, Final Award, March 18, 2014.[12] *10% award to professional salvors for low order salvage operation.*

Sea Tow sought an award of $28,000.00, plus interest, for its efforts in recovering the M/Y BITE ME ("Respondent") after its grounding at low tide on a sandbar on the central Atlantic shore of Long Island, NY. Respondent argued that freeing the BITE ME was a covered service under the terms of the owner's Sea Tow membership, and that Sea Tow was, therefore, entitled to nothing, or alternatively that the operation was a low order salvage entitling Sea Tow to a minimal award.

After examining the Sea Tow Membership agreement to determine whether the ungrounding was a covered service, the arbitrator found that the BITE ME was aground in an area that met the agreement's definition of "dangerous surf" and that the vessel likely suffered propeller damage and did not proceed under its own power, therefore, concluding that at least one and probably two of the five conditions required for the operation to be covered as a free ungrounding service were not met.

However, the arbitrator sided with the Respondent as to the nature of the award, and, after applying the criteria in Article 13 of the Salvage Convention, found that freeing the BITE ME was a low order salvage, notwithstanding the three hours it took to accomplish, because of the calm sea conditions and low risk involved in the operation. The arbitrator subsequently found that the vessel had a salved value of $68,950.00 and awarded Sea Tow $6,500.00 (approximately 10% of the post-casualty value), plus interest.

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IN THE MATTER OF THE ABRITRATION BETWEEN THE SPORTING LIFE, INC. and COCKTAILS LEASING COMPANY, LLC, Final Award, June 25, 2013.[13] *Professional salvor awarded $100,000.00 (10-25% of post-casualty value of vessel) for efforts to recover vessel that was holed and hard aground near Woods Hole, Massachusetts.*

The Sporting Life, a professional marine salvage and towing company, sought a salvage award of $640,000.00 plus interest, an equitable uplift, and attorneys' fees and costs from Cocktails Leasing Company and the M/Y COCKTAILS *in rem* (collectively, "Cocktails") for salvage services following the grounding of the M/Y COCKTAILS on Great Ledge, Woods Hole, Massachusetts.

Greatly disputed in this matter was the post-casualty value of the vessel. Sporting Life contended the post-casualty value of the vessel to be $2,523,680.00 and claimed to be entitled to an award of $640,000.00, 25.4% of what it salvaged. Cocktails contended the post-casualty value, if not a constructive total loss, was somewhere between less than $500,000.00 and $1,000,000.00 and advocated an award of between $40,000.00 and $80,000.00.

Describing post-casualty value determination as an "imprecise exercise," the arbitrator found that based on the weight of evidence, the yacht's post-casualty value was most likely within the range of $400,000.00 to $1,000,000.00. Applying the *Blackwall* factors and taking into consideration, pursuant to Article 13(b) of the International Convention on Salvage, the potential risk (albeit remote) that the yacht's fuel tanks might have been breached, the arbitrator awarded Sporting Life $100,000.00 (10 - 25% of the post-casualty value) and denied its claim for an equitable uplift, attorneys' fees, and costs.

MOSAIC UNDERWRITING SERVICE, INC. v. MONCLA MARINE OPERATIONS, LLC, 2013 WL 1556141 (E.D. La. April 11, 2013). *Stay of litigation granted to signatory of arbitration agreement against non-signatory pending outcome of London arbitration.*[14]

This action involved a dispute between the owner of a salvaged barge and the excess P&I underwriters of the barge who sought a declaratory judgment that they were entitled to take title to the barge and sell it to recover their contribution to the salvage costs. The owner of the barge opposed the excess P&I underwriters' claims and impleaded the hull and primary P&I underwriters, as well as the underwriting agency which obtained the hull and primary P&I coverage, arguing that the underwriters conspired and colluded to compensate it under the primary and excess P&I policies rather than the hull policy in order to ensure that the primary and excess P&I underwriters would receive a credit for the salvage value of the barge (something not provided for under the hull policy).

The hull, primary P&I underwriter, and the underwriting agency all sought and were granted a stay of the case on the basis of London arbitration clauses in their contracts with the barge owner, despite arguments by the owner that the wording in the policies was ambiguous, that impleader via Rule 14(c) renders arbitration inappropriate since it creates a direct claim against the third-party defendants on behalf of the excess P&I underwriter, or that arbitration would create piecemeal litigation.

Following this defeat, the barge owner then moved to stay the excess P&I underwriters' action and compel them to arbitrate their claims in the third-party defendants' London arbitration, arguing that

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although the excess P&I policy did not contain a London arbitration clause, the excess P&I underwriters should nevertheless be bound by the arbitration provisions in the hull and primary P&I policies.

Although the court found no evidence to support any theories (such as incorporation by reference, assumption, agency, alter ego, estoppel, or third-party beneficiary) that would bind the excess P&I underwriters to an agreement to arbitrate as non-signatories, the court exercised its discretion under Section 3 of the Federal Arbitration Act to grant the barge owner's request for a stay of the proceedings. The court found that the litigation and arbitration involved sufficiently similar operative facts, were intertwined strongly enough to lean in favor of a stay, and that the arbitration would be impacted if litigation continued.

WILLIAMSON v. RECOVERY LTD. PARTNERSHIP, 731 F.3d 608 (6th Cir. Oct. 2, 2013). *Interlocutory appeal allowed on order of preliminary injunction (but not prejudgment attachment) in admiralty case under 28 U.S.C.* § 1292 *even though non-admiralty claims were asserted.*[15]

This case is one of many episodes of litigation concerning the recovery of treasure from the wreck of the SS CENTRAL AMERICA, which sank in 1857, and concerned several consolidated appeals. Plaintiffs entered into non-disclosure agreements with certain salvage company defendants, in which plaintiffs agreed to assist in locating the wreckage in exchange for a percentage of net recovery from the expedition.

Plaintiffs brought claims in Ohio State Court alleging breach of the non-disclosure agreements, conversion, and breach of fiduciary duty. Defendants removed the matter to United States District Court for the Southern District of Ohio and counterclaimed, alleging breach of contract, civil conspiracy, and unfair competition.

The district court granted summary judgment on a number of claims in the case, including summary judgment for the plaintiffs on the counterclaims asserted by the various entity defendants, who subsequently filed an interlocutory appeal. Following the filing of the initial appeal, plaintiffs obtained orders of pre-judgment attachment and preliminary injunction, the subject of a second interlocutory appeal. Both appeals were consolidated.

On appeal, the Sixth Circuit first addressed questions of its appellate jurisdiction and held that the interlocutory order of summary judgment as to the defendants' counterclaims was subject to immediate appeal in its entirety because it concerned an "admiralty case" under 28 USC § 1292(a)(3) even though non-admiralty claims were also asserted. The court further held the order of preliminary injunction was subject to immediate appeal under 28 USC § 1292(a)(1) but the order of prejudgment attachment was not, despite defendants' arguments that the attachment had the practical effect of a preliminary injunction.

Finally, the court rejected defendants' contentions plaintiffs' claims were time barred under the two-year statute of limitations for civil actions to recover remuneration for giving aid or salvage services. The court held that because plaintiffs' claims were based on the non-disclosure agreements, such claims were not considered "pure" salvage, and, therefore, the two-year time bar did not apply.

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MONIZ v. STATE OF HAWAII, 2013 WL 2897788 (D. Haw. June 13, 2013). *Pro Se complaint alleging court's admiralty jurisdiction in an attempt to contest a traffic violation and/or foreclosure eviction dismissed as wholly frivolous.*[16]

Pro se plaintiffs brought a complaint against Hawaii State Judges, clerks, police officers, and various Hawaii state agencies alleging admiralty jurisdiction styled as a "Bill of Lading/Salvage Claim." Plaintiffs contested a traffic violation and/or foreclosure eviction adjudicated in Hawaii State Court on the grounds, inter alia, that plaintiffs possess title to the state district court and that the Hawaii State Courts have no jurisdiction over them.

Despite considerable leeway provided *pro se* plaintiffs, the court found the complaint to be unintelligible and dismissed it *sua sponte* for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. First, the court reaffirmed prior jurisprudence holding that Hawaii State Courts have jurisdiction over individuals claiming citizenship of the Sovereign Kingdom of Hawaii. Second, the court found no basis for admiralty jurisdiction. Third, the Court held that judicial immunity bars plaintiffs' claim against Hawaii State Court judges. Accordingly, the U.S. District Court of Hawaii dismissed the complaint *sua sponte* as frivolous.

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