OTHER RECENT ARBITRATION DECISIONS OF NOTE

Jones Act Injury Claims

1. ***lsanto v. Royal Caribbean Cruises, Ltd.***

United States District Court for the Southern District of Florida

October 23, 2020, Decided; October 23, 2020, Filed

Case No. 20-cv-23715-BLOOM/Louis

2020 U.S. Dist. LEXIS 197318 \*; 2020 WL 6262981

COVID 19 Case – Jones Act claim sent to the Bahamas for Arbitration

(United Nations Convention on the Recognition and Enforcement of

Foreign Arbitral Awards).

1. Agreement is in writing;
2. Agreement provides for arbitration in the territory of a signatory of the Convention;
3. Agreement arises from a legal relationship, whether contractual or not, which is considered to be “commercial”; and
4. One of the parties is NOT an American citizen.
5. ***Havard v. Offshore Specialty Fabricators, LLC***

United States District Court for the Eastern District of Louisiana

November 21, 2019, Decided; November 21, 2019, Filed

NO. 14-824 SECTION F

2019 U.S. Dist. LEXIS 201884 : 2019 AMC 2822; 2019 WL 6218648

Direct Action claim against Steamship Mutual added to existing Jones Act litigation

United Nations Convention also implicated.

Court rejected argument that the cost of arbitrating his claim in England would be prohibitive:

“The plaintiff added Steamship as a defendant in this litigation [because of the insurance contract] yet he is displeased by the forum selection clause included in the insurance agreement between Steamship and OSH. Plaintiff cannot embrace the contract when it works to his benefit and repudiate the contract when it work to his detriment.”

The most recent arguments made by a seaman against one of our clients in attempting to defeat a post-injury agreement to arbitrate ran along these lines:

[My boss] invited me to meet with him at a hotel in Port Allen, Louisiana on August 2, 2019 to discuss my injuries and benefits. I had not received any maintenance payments before that date. To my knowledge, my medical bills had not been paid either. I was not working due to my injuries.

At the hotel, [my Boss] tried to settle any case I had against the Defendants. I declined. He then presented the document attached as Exhibit A-1 and told me that I had to sign the agreement before I would be paid maintenance or assisted with my medical treatment. He also said that if I did not sign on the spot, the agreement was off the table. My highest level of education is the 11th grade. When I met [my Boss], I was not represented by counsel. [My Boss] said that I did not need a lawyer and discouraged me from consulting with one. I was also still taking prescription pain medication which made me feel nauseous, dizzy, and drowsy. My wife had to drive me around.

When I signed the agreement, I was not provided opportunity to consult an attorney and was not told I would be giving up my right to a jury trial.

These claims were not successful in defeating the agreement to arbitrate for two reasons: 1) the arbitration agreement included a provision that issues related to validity of the arbitration agreement were within the jurisdiction of the arbitrators; and 2) the seaman’s “Boss” recorded his meeting with the seaman and had an extensive email record of correspondence with the seaman.