Admiralty Committee

Miscellaneous Maritime Law


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Chair

Admiralty tort and contract jurisdiction extends to the operation and maintenance of recreational and commercial vessels to the extent the activities involve a vessel engaged in navigation on navigable waters, including their maintenance, moorage, storage and repair. *Foremost Ins. Co. v Richardson*, 457 U.S. 668 (1982). A contract to buy a boat is not within admiralty jurisdiction.

A vessel is "in navigation" from the time it is launched until the time it is a dead ship. A vessel is any contrivance used or capable of use for transportation on water.... as long as it looks like a vessel and not a house or bathtub. *Stewart v Dutra*, 543 U.S. 481(2005); *Lozman v City of Riviera Beach Florida*, __ U.S. __ (2013) ("Not every floating structure is a 'vessel.' To state the obvious, a wooden washtub, a plastic dishpan, a swimming platform on pontoons, a large fishing net, a door taken off its hinges, or Pinocchio (when inside the whale) are not 'vessels,' even if they are 'artificial contrivances' capable of floating, moving under tow, and incidentally carrying even a fair-sized item or two when they do so.")

With admiralty jurisdiction, whether in state or federal court, comes the application of substantive admiralty law. *East River S.S. Co. v. TransAmerica DeLeval, Inc.*, 476 U.S. 858 (1986).

Florida's Offer of Judgment statute is inapplicable to maritime causes of action. *Nicoll v. Magical Cruise Company, Limited*, __ So. 3d __ (Fla. 5th DCA 2013); *Misener Marine Construction, Inc. v Norfolk Dredging Company*, 594 F.3d 832, 841 (11th Cir. 2010), *cert denied*, 130 S.Ct. 3505 (2010) (holding that the Georgia Code that provides for the recovery of attorneys' fees by a prevailing party is in direct conflict with the American Rule which, unless otherwise provided by maritime statutes or contract, bars the shifting of attorneys' fees and is a characteristic feature of maritime law); *Texas A & M Research Found v. Magna Transp. Inc.*, 338 F.3d 394, 405 (5th Cir 2003).

The Limitation of Liability Act, 46 U.S.C. §§ 30501-30512, includes various limitations of liability of vessel owners. Section 30505 provides that a vessel owner can limit the owner's liability for collision or personal injury or death done *without the privity or knowledge of such owner* to the value of the interest of such owner in the vessel *at the end of the voyage* (which, after a collision and involving a sinking, can be zero).

General maritime law recognizes loss of consortium claims only for claims arising in state territorial waters (within 3 nautical miles of shore) and only for non-seafarers (passengers, invitees, and persons not on vessels injured by non-commercial vessel activities). *Yamaha Motor Corp v. Calhoun*, 516 U.S. 199 (1990).

The statute of limitation for cruise ship passenger claims is one year. Venue for cruses originating in Florida is generally specified as the U.S. District Court for the Southern District of Florida. Maritime law holds the operator of a vessel owes all passengers and invitees the duty to exercise reasonable care under the circumstances to avoid personal injury and to warn of any known (or should have known) dangers. 46 U.S.C. § 30102. *Kermarec v. Compagnie Gen'l Trans*, 358 U.S. 625 (1959).

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State law governs marine insurance contracts, because Congress has delegated insurance regulation to the states by the McCarran-Ferguson Act, 15 U.S.C. § 1011 *et seq*, so federal preemption rules do not apply. *Wilburn Boat Co. V. Fireman's Fund Insurance Co.*, 348 U.S. 310 (1955).

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