

ADMIRALTY COMMITTEE

Recent Decisions on Removability to Federal Court of Maritime Claims Filed in State Courts



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Chair

Charles Davis¹, author of the widely acclaimed Maritime Law Deskbook, disseminated the following advisory regarding removability:

“There has been a flurry of recent decisions interpreting the holding of **Ryan v. Hercules Offshore, Inc.**, 2013 AMC 67547 (S.D. Tx. 2013), which interprets the 2011 amendments to 28 U.S.C. § 1441(b) that struck wording that courts have considered to prohibit removal of admiralty claims that did not meet the other requirements for removal under §1441(b). Ryan held that § 1441(b) no longer prohibits removal of admiralty claims from state courts.

Wells v. Abe’s Boat Rentals, Inc., 2013 AMC 2208 (S.D. Tx. 2013), approved the analysis of Ryan, but held that as Jones Act claims are not removable, Jones Act claims must be severed from general maritime law claims and remanded. See also **Carrigan v. M/V AMC Ambassador**, 2014 U.S. Dist. Lexis 12484 (S.D. Tx. 2014); **Bridges v. Phillips 66 Co.**, 2013 U.S. Dist. Lexis 164542 (M.D. La. 2013).

Barry v. Shell Oil Co., 2014 U.S. Dist. LEXIS 23657 (E.D. La. 2014), held that general maritime claims filed in state court with a jury demand are not removable, absent diversity of the parties, thus avoided ruling on the issue whether maritime claims are within “federal question” jurisdiction, subject to removal. **Coronel v. AK Victory, Inc.**, Cause No. C13-2304JLR (W.D. 2014), reviewed removability of claims both under the general maritime law and the Jones Act that are filed in state court under the saving to suitors clause of 33 U.S.C. § 1333, citing to **The Belfast**, 74 U.S. 624, 644 (1868), for the distinction between a venue and a remedy: “It is not a remedy in the common-law courts which is saved, but a common-law remedy.” Coronel holds that as state courts remain “competent to adjudicate maritime causes of action in proceedings in personam” with concurrent jurisdiction with federal courts in admiralty (citing to **Madruaga v. Superior Court**, 346 U.S. 556, 561, 1954 AMC 405 (1954)), the 2011 Amendments of § 1441(b) apply only to claims that are cognizable on the “law side” of federal court jurisdiction independent of § 1333 (e.g., those brought under specific jurisdictional statute or diversity jurisdiction under 33 U.S.C. § 1332). Coronel holds that maritime claims filed in state court are removable only if the requirements of federal court diversity jurisdiction are met: To hold otherwise would “vitate the saving to suitors clause.”

Also, it should be noted that the Fifth Circuit has granted a motion for a rehearing en banc of the appeal of **McBride v. Estis Well Service, LLC**. The three-judge panel held that punitive damages can be recovered for death or injury to seamen in general maritime law unseaworthiness actions.

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