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## VESSEL OWNER'S LIMITATION OF LIABILITY

The Limitation of Shipowners' Liability Act of 1851, codified at 46 U.S.C. §§ 30501 et seq, provides an opportunity unique to maritime law for vessel owners to limit their liability to the value of the vessel and its cargo **after** the accident or sinking or for complete exoneration for damage to property and for personal injury, incurred as a result of a vessel accident. The statute applies to every description of watercraft, including a wave runner, dinghy, dive boat, fishing charter boat, so long as the incident occurs in navigable waters and "without the privity or knowledge of the owner" and the vessel is under 100 gross tons. Some extreme examples are its application to deny recovery for the 1912 Titanic sinking to the value of the lifeboat, the Duck Boat sinking in Branson, MO, 17 dead, the Ethan Allen on Lake George, 20 dead, and the destruction by fire of the Dive Boat Conception, Labor Day, September 2, 2019, 34 dead.

The procedural provisions for limitation or exoneration are implemented by Rule F, Supplemental Rules for Admiralty or Maritime Claims, which rules are located at the end of the Federal Rules Civil Procedures. The vessel owner must bring the limitation action in federal court in admiralty, and "all claims and proceedings against the owner or the owner's property with respect to the matter in question shall cease." Fed.R.Civ.P.Supp. Rule F(3). Claimants asserting an owner's liability for the incident may then file claims in the limitation action. A claimant can defeat the limitation action by showing that the incident occurred "with the privity and knowledge of the owner." (46 U.S.C. § 30506(b)) If a claimant desires to contest either the right to exoneration from or the right to limitation of liability the claimant shall file and serve an answer to the complaint for limitation." Fed.R.Civ.P.Supp.

Rule F(4) It is not sufficient that the claimant simply deny the allegations of freedom from fault; the answer must set forth specific faults alleged as grounds for denying the petition. Fed.R.Civ.P.Supp. Rule F(5); *Petition of M/V Sunshine*, II, 808 F.2d 762 (11<sup>th</sup> Cir. 1987).

A shipowner can also raise limitation of liability as an affirmative defense to an action filed against the vessel or the owner in federal court in diversity or state court under the savings to suitors clause, 28 U.S.C. § 1333, and admiralty court has the discretion to stay the limitation action and allow that court to make the determination as to owner liability, so long as there is only one claimant or the value of the vessel after the accident exceeds the value of the alleged claims against the owner and vessel.