BUFFERING THE COLLISION BETWEEN THE HISTORICAL PROTECTIONS FOR SEAMEN AND THE INCREASING USE OF INTERNATIONAL ARBITRATION AGREEMENTS

ROBERT D. PELTZ | ARTICLE

Today, virtually all seaman working for the cruise lines headquartered in the United States are employed under collective bargaining agreements (CBA) with either the Norwegian Seaman's Union (NSU) or the Federazione Italiana Transporti (ITF). These unions are financed directly by the cruise lines and have often been criticized for not adequately representing the interests of foreign seaman who are not union members, but are nevertheless covered by their CBAs. These CBAs typically require arbitration in far flung countries such as Panama, Bermuda, Norway, and the Philippines, despite the fact that the overwhelming majority or cruise lines maintain their base of operations in Florida, California, and Washington.Read More…

HOW LIMITED IS "LIMITED AGENCY"? LOWER COURTS ROCK THE BOAT BY BROADLY APPLYING THE SUPREME COURT'S NARROW*KIRBY* GUIDELINES FOR INTERPRETING BILLS OF LADING

RICHARD L. KILPATRICK, JR. | ARTICLE

Resisting the urge to comment on the first two significant holdings adopted in *Kirby*, this Article seeks illuminate the legal difficulties surrounding the application of the limited agency doctrine within the perceived boundaries of the Supreme Court's framework. Read More…

PERSONAL JURISDICTION OVER MARITIME DEFENDANTS:*DAIMLER*, *WALDEN*, AND RULE 4(K)(2)

LAURA BECK KNOLL | ARTICLE

The United States Supreme Court's recent decisions in two nonmaritime cases, *Daimler AG v. Bauman* and the unanimous*Walden v. Fiore*, have seriously limited a court's ability to exercise personal jurisdiction over foreign and domestic maritime defendants. The reasons rest in the inherent nature of maritime business as interstate and interstate and

international and the dominance or foreign entities in maritime industries. This Article will discuss the effect of these cases on maritime defendants ranging from foreign and domestic vessel and cargo owners to stevedores and Caribbean tour operators.Read More…

Historically Iced Out: Calling on the United Stated To Resolve Its International Law Disputes in the Arctic Ocean

Jeanne L. Amy | Comment

Projections show that Arctic sea ice could experience a complete melt-out by 2020.2 Accordingly, on May 10, 2013, President Barack *138 Obama released the National Strategy for the Arctic Region, which outlines strategic priorities for the United States to ensure safety and stability in the changing Arctic landscape.3 Due to consistently receding sea ice in the Arctic, commercial and recreational avenues in the polar north have become increasingly accessible, especially for the nations that border the region. Following the promulgation of the plan, various government agencies began the work of projecting what this increased commercial activity in the Arctic would look like and what impacts such activity would have on the region.Read More…

Limitation of Shipowner's Liability: The State (Court) We're In

Michael T. Amy | Comment

Under the law of the United States, a shipowner has the right to limit its liability for damages following a marine casualty in accordance with the provisions of the Limitation of Vessel Owner's Liability Act of *158 1851 (Limitation Act or Act). Generally, the Act permits a vessel owner to limit its liability for any claim, debt, or liability enumerated in the Act up to the value of its vessel and pending freight.2 The shipowner's ability to limit its liability, however, hinges upon whether it had privity or knowledge of the cause of the casualty.Read More…

Captaining the Ship into Culpability: *Barbetta*, *Franza*, and the Efficacy of Imputing Liability to Corporate Shipowners in the Medical Malpractice Context

Matthew T. Drenan | Comment

“Deserve’s got nothin’ to do with it.”

The timeless words of Will Munny in Unforgiven resonate when considering the efficacy of imputing liability to the corporate shipowner in the medical malpractice context. Should cruise ship corporations be held liable for the negligence of their onboard medical personnel? And, is there anything inherent about the maritime setting that should automatically immunize cruise ship corporations from vicarious liability?Read More…

Ghost Ships: Why the Law Should Embrace Unmanned Vessel Technology

Paul W. Pritchett | Comment

Recent years have seen rapid advancement in the development and use of unmanned autonomous and semiautonomous vehicle technology, colloquially known as drones. Initial development of the technology was driven largely by military applications, but it is now being used more and more in the civilian world. Not surprisingly, one of the first civilian applications of this technology occurred in the maritime industry with the advent of unmanned, underwater vehicles. However, until recently, advancements in unmanned vehicle technology have not reached the water’s surface.Read More…

Multimillion-Dollar Commas and “Magic Words”: The In re Deepwater Horizon Additional Insured Dispute

Alana Riksheim | Comment

The Deepwater Horizon oil spill in April 2010 caused unprecedented and catastrophic loss to communities, economies, and the environment in the Gulf of Mexico. Amidst the sea of ensuing litigation that has focused on apportioning liability, one legal battle centered on British Petroleum’s (BP) claim to additional insured coverage under the rig-owner Transocean’s primary- and excess-insurance policies. The dispute was neither insignificant in dollars-at-stake ($750 million) nor impact for the offshore insurance industry.Read More…

Arrested Development: An Examination of Carriers’ Arrest Defense Under the Carrigage of Goods by Sea Act and the Tort of Financial Unseaworthiness

Caroline Sanches | Comment

For Thyssenkrupp Materials N.A., Inc. (Thyssenkrupp), Monday, May 7, 2012 started out as just another beautiful spring day. Thyssenkrupp had no idea that its large shipment of steel plate, scheduled to be delivered to the United States from Turkey later that month, was about to be delayed by three months due to no fault of its own, had no idea that it would have to sell the steel at a reduced price because of the delay, and had no idea that it would not be able to recover any of the profit it was about to lose. A little more than two months earlier, Thyssenkrupp entered into a charterparty with Western Bulk Carriers A/S (WBC) for the purpose of transporting approximately 7415 metric tons of steel from Turkey to the ports of New Orleans and Houston. WBC nominated the M/V SANKO, a vessel it had time chartered from the owner, Sanko Steamship Co. of Japan (Sanko), to complete the voyage. Unbeknownst to Thyssenkrupp, Sanko was financially insolvent and had many unsatisfied creditors. On May 7, 2012, during the voyage, creditors of Sanko placed an attachment on the vessel. Sanko was unable to post bond, so the vessel was arrested in the Port of Baltimore for approximately three months before she was released and finally delivered the steel. During the three-month delay, the price of steel depleted, and Thyssenkrupp was forced to sell the shipment for almost $600,000 less than it could have sold it on the scheduled delivery date. Additionally, four plates of steel, each worth almost $11,000, were missing upon delivery. Thyssenkrupp sued WBC for the cost of the missing plates and the lost profit under theories of contract and tort, alleging that the carrier failed to provide a financially seaworthy vessel. The United States District Court for the Southern District of New York granted summary judgment against Thyssenkrupp's tort action, holding that financial unseaworthiness as a tort has never been recognized as a cause of action in the United States Court of Appeals for the Second Circuit. With respect to the contract claim, the court determined that summary judgment was inappropriate because the factual record was both disputed and incomplete and accordingly dismissed this part of WBC's motion.Read More…

Taxation Without Representation: Nonresident Taxpayers Face Additional Cost of Doing Business in China as a Result of New Provisional Measures

Brittany A. Smith | Comment

"No taxation without representation!" This battle cry rings in the minds of many who have studied the history of the United States. In order to recoup some of the losses incurred while defending the American colonies during the Seven Years' War (1756-1763) and the French and Indian War (1754-1763), the British Parliament implemented direct taxation upon the colonists. One of these taxes was imposed by the 1765 Stamp Act, under which Great Britain levied a tax on paper, legal documents, and other commodities. Denouncing the law, colonial assemblies and colonists alike claimed the 1765 Stamp Act was an illegal infringement on their rights as Englishmen. Amidst boisterous protests and mounting pressure, Parliament repealed the law the following year; however, the colonial response provided an impetus for the American independence movement.Read More…

TITLE

David A. Bury | Note

RLB Contracting, Inc. (RLB), owned the JONATHAN KING BOYD, a dredging vessel that was engaged in operations near Anahuac, Texas. In 2011, while on a family fishing trip, the Butler family's boat collided with the vessel's floating dredge pipe, violently throwing all occupants from the craft and killing twelve-year-old Sammie Butler. The Butlers filed suit against RLB in Texas state court, claiming that the vessel's dredge pipe was improperly marked and that RLB was negligent in failing to post signs warning of its dredging activity. In response, RLB filed a limitation of liability action in the United States District Court for the Southern District of Texas, seeking to invoke federal subject matter jurisdiction and limit its liability to the $750,000 value of the vessel, pursuant to the federal Limitation of Liability Act (Limitation Act). The Butlers challenged the federal court's jurisdiction, contending that RLB failed to file a petition seeking limitation within six months of receiving written notice of a claim, a requirement necessary to invoke the Limitation Act's protections.Read More…