

From The Bench

legal news of interest

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THE ADMIRALTY EXTENSION ACT REVISTED

by Deanne B. McCauley

BRINEY & FORET

Attorneys at Law

413 Travis Street
Post Office Drawer 51367
Lafayette, Louisiana 70505
337-237-4070
FAX 337-233-8719

Q. Can a longshoreman bring an admiralty action for injuries caused by negligence in loading ship supplies.

a. No. He must prove a defect in the vessel or its appurtenances.

The *Admiralty Extension Act* extends admiralty jurisdiction to “all cases of damage or injury, to person and property, caused by a vessel on navigable water, notwithstanding that such damage or injury be done or consummated on land.”¹ To invoke maritime jurisdiction under the *Admiralty Extension Act*, a plaintiff injured onshore must allege the injury was caused by a defective appurtenance of a ship on navigable waters.²

In 1963, the United States Supreme Court considered the application of the *Admiralty Extension Act* in *Gutierrez v. Waterman Steamship Corp.*³ The plaintiff, a longshoreman, brought suit against a shipowner for injuries sustained when he slipped on beans on a dock. The Court found the shipowner was negligent in allowing beans to be unloaded in their defective bagging, when it knew or should have known injury was likely to result to persons having to work around the spilled beans. The Court held the case was within the maritime jurisdiction under the *Admiralty Extension Act* when it is alleged that “the shipowner commits a tort while or before the ship is being unloaded, and the impact of which is felt ashore at a time and place not remote from the wrongful act.”⁴

In *Victory Carriers, Inc. v. Law*,⁵ decided in 1971, the U.S. Supreme Court held that jurisdiction in *Gutierrez* “turned, not on the ‘function’ the stevedore was performing at the time of the injury, but, rather upon the fact that his injury was caused by an appurtenance of a ship, the defective cargo containers. . . .”⁶ The Court refused to “extend the reach of the federal law to pier-side accidents caused by a stevedore’s pier-based equipment.”⁷ Historically, accidents on land have not been within the maritime jurisdiction, as construed by the Supreme Court. Piers and docks have been consistently deemed extensions of land and injuries which occur to or on them have not been held to be compensable under maritime law.

More recently, in *Egorov, et al. v. Terriberry, Carroll & Yancey, et al.*,⁸ the Fifth Circuit Court of Appeals analyzed the Supreme Court’s decisions in *Victory* and *Gutierrez*. In *Egorov*, a Russian law firm made a claim against a United States law firm for tortious interference with a contract. The Russian firm represented a Russian crew in a suit for back wages and penalties after the vessel on which they were working had been seized by an alleged creditor. The District Court held admiralty tort jurisdiction did not apply. The Fifth Circuit held the impact of the alleged tort was felt on land rather than on navigable waters and because the damage was not caused by the vessel or her appurtenances, there was no federal admiralty jurisdiction.⁹



The Fifth Circuit again addressed the parameters of the *Admiralty Extension Act* in *Dahlen v. Gulf Crews, Inc., et al.*¹⁰ Dahlen, a barge operator employed by Island Operating, injured his back while unloading a metal grocery box. Dahlen was working aboard an oil platform located on the Outer Continental Shelf. Dahlen sued the platform owner as well as the grocery supplier and the chartered ship owner.

The grocery supplier and chartered ship owner were dismissed summarily as the trial court concluded they owed no duty to the plaintiff. At trial, the court found the platform owner, as the time charterer, was not negligent. The plaintiff appealed.

The U.S. Fifth Circuit Court of Appeals found the facts of *Gutierrez* to be distinguishable as the plaintiff in *Gutierrez* slipped on beans that spilled out of a defective bag while it was being unloaded from a ship (not after it had been placed on the dock). In *Dahlen*, the plaintiff had only alleged negligence in the manner in which the groceries had been loaded into the box. The plaintiff had not alleged a defect in the grocery box itself. The Court of Appeals, relying on the holding in *Egorov*, noted “the defect must be in the appurtenance and not be due to the personnel performing services for the vessel.”¹¹

¹ 46 U.S.C. § 740.

² *Margin v. Sea-Land Services, Inc., et al.*, 812 F.2d 973, 975 (5th Cir. 1987).

³ 373 U.S. 206, 83 S.Ct. 1185, 10 L.Ed.2d 297 (1963).

⁴ *Id.* at 210, 83 S.Ct. at 1188.

⁵ 404 U.S. 202 at 218, 92 S.Ct. 418, 30 L.Ed.2d 383 (1971).

⁶ *Id.* at 210-211, 92 S.Ct. at 424.

⁷ *Id.* at 204, 92 S.Ct. at 421.

⁸ 183 F.3d 453 (5th Cir. 1999).

⁹ *Id.* at 456, citing *Gutierrez* at 373 U.S. 210.

¹⁰ 281 F.3d 487 (5th Cir. 2002).

¹¹ *Id.* at 494, citing *Egorov*, 183 F.3d at 456.



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SPOILIATION OF EVIDENCE

A hospital employee fell from an allegedly defective stool owned by her employer. She claimed an injury. Two days later, a hospital employee disposed of the stool for safety reasons. He had not been instructed to do so, and he did not intend to deprive the plaintiff of a cause of action. The Third Circuit, although recognizing a cause of action for spoliation of evidence, ruled the plaintiff may not recover in tort from her employer under these circumstances. The defendant did not act intentionally, and as there was no duty to preserve the evidence, the defendant was not negligent in disposing of the stool.¹

¹ *McCool v. Beauregard Memorial Hospital*, 01-1670 (La. App. 3 Cir. 4/3/02), 2002 WL 496497.

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Patrick J. Briney	Shannon J. Gremillion
Charles J. Foret	Gary J. Delahoussaye
Katherine M. Loos	Carol S. Hunter
Michael P. Corry	Richard R. Montgomery
Deanne B. McCauley	Matthew D. McConnell
Kevin S. Frederick	Crystal D. Burkhalter

Christopher L. Zaunbrecher*
* of counsel



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