



**The Fifth Circuit limits a shipowner's use of the Limitation Act.
Inland Dredging v. Sanchez, CA No. 05-61156, 2006 WL 3055854
(5th Cir. Oct. 27, 2006; revised Nov. 16, 2006)**

Many Jones Act plaintiffs file their claims for personal injuries in the United States District Court for the Southern District of Texas, Galveston Division. In the proverbial rush the Courthouse, Inland Dredging Company, LLC ("Inland Dredging"), owner of the M/V MS. PAULA, filed a limitation action on July 16, 2004, in the United States District Court for the Northern District of Mississippi when it became aware of the personal injury claims of Ricardo Sanchez ("Sanchez"), who was allegedly injured while working aboard the MS. PAULA. Despite the injunction order issued by the Mississippi federal court, Sanchez filed his Jones Act claims for personal injuries in the Galveston federal court on July 23, 2004.

The Mississippi federal court issued an order mandating that all claims be brought in the Mississippi action and restraining all other claims and proceedings brought elsewhere. Sanchez thereafter filed a motion in the Mississippi federal court to dissolve the injunction. In his motion, Sanchez stipulated to the value of the MS. PAULA, agreed the Mississippi federal court had exclusive jurisdiction to determine Inland Dredging's right to limitation and the value of the limitation fund, and agreed not to seek a ruling in the Galveston federal court on any of these issues or seek execution of any judgment obtained in the Galveston federal court in excess of the value set by the Mississippi federal court (\$235,000.00). Sanchez further argued that as a single claimant who filed a stipulation that protected Inland Dredging's rights to limitation, he should be permitted to pursue his claims in his chosen forum of Galveston. Inland Dredging countered that because Sanchez brought his Galveston federal court claims in admiralty (as opposed to common law), he was restricted to litigating his claims against Inland Dredging in Mississippi federal court.

The Mississippi federal court agreed with Inland Dredging and denied Sanchez's request to dissolve the injunction. In short, the Mississippi federal court found that the Savings to Suitors clause did not apply since Sanchez brought his claims in admiralty, so he was not entitled to proceed in his choice of forum. On appeal, the Fifth Circuit noted that the Mississippi federal court's refusal to allow Sanchez to pursue his claims in Galveston turns the Limitation Act into "an offensive instrument" that destroys a seaman's "traditional right to choose his forum." The Fifth Circuit



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agreed with the Second Circuit's holding in *Kreta Shipping v. Preussay Int'l Steel Corp.*, 192 F.3d 41, 48 (2d Cir. 1999), in finding that "a single claimant's choice of forum is a sufficient interest to warrant the dissolution of an injunction if the claimant files stipulations that adequately protect the shipowner's rights under the [Limitation] Act." The Fifth Circuit vacated and remanded the Mississippi district court's denial of Sanchez's motion.

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