In the

United States Court of Appeals

For the Seventh Circuit

No. 20-3433

ROEN SALVAGE COMPANY, as owner of Crew Boat Monark #2,
Petitioner-Appellant,

v.

JULIE SARTER,
Claimant-Appellee.

Appeal from the United States District Court
for the Eastern District of Wisconsin.
No. 20-C-915 — **William C. Griesbach**, *Judge*.

ARGUED SEPTEMBER 24, 2021 — DECIDED NOVEMBER 10, 2021

Before EASTERBROOK, ROVNER, and KIRSCH, *Circuit Judges*.

EASTERBROOK, *Circuit Judge*. Donald Sarter drowned after the vessel Monark #2 capsized in Lake Superior. His employer Roen Salvage, which owned Monark #2, filed this federal action under 46 U.S.C. §30505(a), asking the court to limit its liability to $25,000, which it says is the amount of its interest in the vessel. It also asked for exoneration from all liability, a possibility missing from §30505(a) (commonly called the Limitation Act) but mentioned in Rule F(2) of the Supplemental

Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, an appendix to the Federal Rules of Civil Procedure.

A federal court has exclusive jurisdiction of claims under the Limitation Act, see 28 U.S.C. §1333(1), "saving to suitors in all cases all other remedies to which they are otherwise entitled." The district court initially entered an injunction forbidding Julie Sarter, the decedent's spouse, from litigating in any other forum, but she asked the judge to vacate that injunction so that she could proceed under the language we have quoted, commonly known as the Saving-to-Suitors Clause. The judge granted that motion, 2020 U.S. Dist. LEXIS 227813 (E.D. Wis. Dec. 4, 2020), and declined to reinstate the injunction pending appeal, 2021 U.S. Dist. LEXIS 6359 (Jan. 13, 2021). Roen immediately appealed. Our jurisdiction comes from 28 U.S.C. §1292(a)(1) and (a)(3). See Fed. R. Civ. P. 9(h)(2).

After a vessel's owner seeks protection under the Limitation Act, a would-be plaintiff often files a concession (sometimes, though inaccurately, called a stipulation) that the federal court's decision about the owner's maximum liability will control even if a state court sets a higher figure in a Saving-to-Suitors action. Julie Sarter made such a concession, in the form of a promise to waive any claim of *res judicata* should Roen return to federal court seeking a cap on its outlay under the Limitation Act. But she declined to make a similar concession about the possibility of exoneration from all liability. She contended that a state court is competent to decide whether the vessel's owner bears any liability at all. The district court agreed with her about that point. Roen contends that this decision conflicts with *Lewis v. Lewis & Clark Marine, Inc.*, 531 U.S. 438 (2001).

The first question for us is whether any federal statute entitles a vessel owner to have a federal judge determine exoneration. The answer is no. Certainly §30505(a) does not do so. It reads: "Except as provided in section 30506 of this title, the liability of the owner of a vessel for any claim, debt, or liability described in subsection (b) shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner's proportionate interest in the vessel and pending freight." And §30506, to which the Limitation Act refers, likewise does not mention exoneration. Thus any entitlement to exoneration lies in the common law of admiralty. That's how the Justices understood Rule F in *Lewis*—as a restatement of old admiralty decisions. It would be hard to see Rule F as a free-standing limit of liability or a reservation of exclusive federal jurisdiction, given the language in the Rules Enabling Act that the federal rules are not supposed to abridge substantive rights. 28 U.S.C. §2072(b). And Fed. R. Civ. P. 82 proclaims that the Rules of Civil Procedure do not affect subject-matter jurisdiction either.

Lewis summarizes the common-law developments that led to the current form of Rule F. 531 U.S. at 446–50. We need not repeat them. The Court summed up by writing that, when there is only one claimant, or when the total demanded by multiple claimants does not exceed the value set by the Limitation Act, a federal court may permit the substantive claim or claims to proceed in state court under the Saving-to-Suitors Clause. When multiple claims pressed in state court exceed the likely value of the vessel it is appropriate for the federal judge to retain all aspects of the litigation and decide whether the vessel's owner is entitled to exoneration. In all other situations, the Justices stated, it is enough for the federal court to

set the maximum amount of recovery that a state court may allow. Thus "the scope of exclusive federal jurisdiction is proportional to the federal interest in protecting the vessel owner's right to seek limitation of liability." 531 U.S. at 453. To put this otherwise, there is not an *independent* federal right to exoneration, which is derivative from a potential need to control multi-party litigation that may threaten the cap set by the Limitation Act. "[W]here … the District Court satisfies itself that a vessel owner's right to seek limitation will be protected, the decision to dissolve the injunction [and permit suit in state court] is well within the court's discretion." *Id*. at 454.

Julie Sarter is the only person seeking a remedy against Roen Salvage because of Monark #2's capsizing. The district court can set a maximum level of liability based on the criteria in §30505(a), which will fully protect Roen's federal statutory rights. It was therefore "well within the court's discretion" to permit the substantive claim to proceed in state court.

The parties have spent many pages discussing exactly what concessions (by the would-be plaintiff) or stipulations (by the litigants jointly) are necessary to protect the vessel owner's rights. Our answer is: None. True, the tort claimant in *Lewis* made several concessions, which the Supreme Court deemed sufficient to protect the vessel owner. 531 U.S. at 451–52. But it did not hold that they were *necessary*. Protection also comes from statutes and judicial orders. When lifting or modifying an injunction to permit litigation in state court, a federal district judge should make any provisos that are essential to safeguard the federal right under §30505(a). The judge could provide, for example, that, if the state court awards damages exceeding the owner's estimate of the vessel's worth, then the federal court will determine that value without regard to the

state judge's conclusion. Litigants do not need to concede or stipulate that federal statutes will be observed, and a state court's attempt to decide an issue that is within the scope of exclusive federal jurisdiction under §1333(a) will not be honored when the vessel owner stands on its right to a federal decision.

Because Julie Sarter has promised that she will not plead *res judicata* should Roen Salvage return to federal court under §30505(a), and because Roen does not possess a right to have a federal court determine its claim to exoneration from liability, we need not remand for the district court to make these matters explicit in its order allowing state litigation. In the future, district judges should choose appropriate language that will obviate the sort of dispute the parties to this case have had about exactly what words a would-be state-court plaintiff must use in order to protect the vessel owner's rights.

AFFIRMED