

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

EUGENE BROWN

CIVIL ACTION

VERSUS

NO. 12-1294

MSC SORAYA, ET AL

SECTION "C" (2)

ORDER AND REASONS

This matter comes before the Court on motion for summary judgment filed by the Board of Commissioners of the Port of Orleans ("Port") and motion for summary judgment filed by MSC Mediterranean Shipping Co., S.A. ("MSC"), Rec. Docs. 75, 76. Having considered the record, the memoranda of counsel and the law, the Court rules as follows.


The plaintiff sued MSC under 33 U.S. § 905(b) and diversity seeking damages for personal injuries allegedly sustained in May 2009 when he fell on a slippery substance on MSC's vessel while working as a longshoreman for Ceres Gulf, Inc. MSC filed a third party complaint under Fed. R. Civ. P. 9(h) against the Port with a tender under Fed. R. Civ. P. 14, alleging that one of the Port's container cranes was responsible for the slippery substance and accident. The Port filed a counterclaim against MSC claiming indemnity.

In their motions, both MSC and the Port argue that the other is responsible for the presence of the slippery substance, and both motions are accompanied with proof in support of each argument. As a result, there is an underlying genuine issue of material fact as to the nature and origin of any slippery substance involved in the plaintiff's accident, along with fault, that precludes summary judgment by any party.

Accordingly,

IT IS ORDERED that the motion for summary judgment filed by the Board of Commissioners of the Port of Orleans and the motion for summary judgment filed by MSC Mediterranean Shipping Co., S.A. are DENIED. Rec. Docs. 75, 76.

New Orleans, Louisiana, this 29<sup>th</sup> day of July, 2013.

  
HELEN G. BERRIGAN  
UNITED STATES DISTRICT JUDGE