

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JAN 22 2018 ★
LONG ISLAND OFFICE

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IN THE MATTER OF THE COMPLAINT OF
WITTICH BROS. MARINE, INC., as Owner and
Operator of the Tug SEA BEAR, for
Exoneration from or Limitation of Liability,

ORDER
CV 15-5210
(Wexler, J.)

Petitioner.

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WEXLER, District Judge:

On January 9, 2018, the Court issued a Memorandum and Order (the "Order") granting in part and denying in part Petitioner's motion for a judgment on the pleadings, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. Petitioner now requests reconsideration of that Order or, in the alternative, for leave to file an interlocutory appeal, pursuant to 28 U.S.C. § 1292(b). Claimant opposes both requests.

Petitioner's request for reconsideration is denied. In its letter motion requesting reconsideration, Petitioner submits the exact same case law it put before the Court in support of its underlying motion for a judgment on the pleadings, which the Court considered thoroughly in rendering its Order. Petitioner is attempting to do exactly what motions for reconsideration prohibit - reargue the position already considered and rejected by the Court. While Petitioner may be unhappy that the Court did not accept its interpretation and application of the case law it submitted, that is not grounds for reconsideration.

The Court will, however, grant Petitioner's request for a certificate of appealability, pursuant to 28 U.S.C. § 1292(b). The Court agrees that there does appear to be some confusion among the various courts as to the interaction between the Jones Act and the general maritime

law, warranting review and clarification by the Second Circuit.

Accordingly, Petitioner's request that the Court certify its January 9, 2018 Memorandum and Order for interlocutory appeal, pursuant to 28 U.S.C. § 1292(b), is granted. This action will be administratively closed pending disposition by the Second Circuit of the interlocutory appeal. The parties are directed to notify the Court within thirty (30) days of the Second Circuit's decision on the interlocutory appeal if they seek to reopen this action.

SO ORDERED:

Dated: Central Islip, New York
January 22, 2018


LEONARD D. WEXLER
United States District Judge