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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SCANDIES ROSE FISHING COMPANY,  
LLC,

Plaintiff,

v.

HENRY PAGH,

Defendant.

CASE NO. C18-672 RSM

ORDER GRANTING IN PART  
DEFENDANT’S MOTION TO DISMISS

**I. INTRODUCTION**

This matter comes before the Court on Defendant’s Motion to Dismiss Declaratory Judgment Action. Dkt. #12. Defendant seeks to have this action dismissed or stayed pending resolution of his state court maritime action arising from the same underlying events. Plaintiff opposes the Motion. Dkt. #17. For the reasons stated below, the Court will partially grant Defendant’s Motion and stay this matter.

**II. BACKGROUND**

Defendant suffered two injuries while aboard the F/V Scandies Rose on October 29, 2017. Dkt. #12 at 2. Defendant and Plaintiff disagreed as to Defendant’s maintenance rate<sup>1</sup> as a result

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<sup>1</sup> Under general maritime law, an injured seaman is entitled to “maintenance”—food and lodging—and “care”—medical treatment—from the shipowner employing the seaman. See 1 ADMIRALTY & MAR. LAW § 6.28 (6th .ed.).

1 of the injuries. *Id.* Following discussions, the dispute appeared likely to result in litigation. Dkts.  
2 #12 at 3; #17 at 10.

3 Plaintiff initiated this action on May 9, 2018. Dkt. #1. Defendant filed an action in state  
4 court on June 4, 2018, asserting Jones Act, unseaworthiness, and maintenance and cure claims.  
5 Dkt. #13 at 7–9 (Ex. 1). Defendant asserts that this federal action was filed solely as a litigation  
6 strategy and the parties dispute whether the rate of maintenance—at issue in this case—should  
7 be decided separately from Defendant’s state court action or whether all issues related to the  
8 October 29, 2017 injuries should be decided together in state court. Dkts. #12 and #17.  
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### 10 III. DISCUSSION

11 “In the declaratory judgment context, the normal principle that federal courts should  
12 adjudicate claims within their jurisdiction yields to considerations of practicality and wise  
13 judicial administration.” *Wilton v. Seven Falls Co.*, 515 U.S. 277, 288 (1995). As such, “district  
14 courts possess discretion in determining whether and when to entertain an action under the  
15 Declaratory Judgment Act, even when the suit otherwise satisfies subject matter jurisdictional  
16 prerequisites.” *Id.* at 282. The Declaratory Judgment Act, 28 U.S.C. § 2201, placed “a remedial  
17 arrow in the district court’s quiver; it created an opportunity, rather than a duty, to grant a new  
18 form of relief to qualifying litigants.” *Id.* at 288. The Ninth Circuit has identified many non-  
19 exclusive considerations that should guide the district courts in weighing “concerns of judicial  
20 administration, comity, and fairness” to decide whether to exercise its power or defer to a parallel  
21 state court action. *Camberlain v. Allstate Ins. Co.*, 931 F.2d 1361, 1367 (9th Cir. 1991).  
22 Generally the district courts are to avoid endorsing a party’s forum shopping, needless  
23 determinations of state law, duplicative litigation, piecemeal resolution of disputes, procedural  
24 fencing, and entanglement of the state and federal courts. *Principle Life Ins. Co. v. Robinson*,

1 394 F.3d 665, 672 (9th Cir. 2005) (citing *Am. States Ins. Co. v. Kearns*, 15 F.3d at 142 (9th Cir.  
2 1994); *Gov't Emps. Ins. Co. v. Dizol*, 133 F.3d 1220 (9th Cir. 1998)).

3 Defendant argues that in circumstances such as this—where both a federal court  
4 declaratory judgment action regarding maintenance and cure and a state court action asserting  
5 Jones Act claims are pending—courts consider whether to exercise jurisdiction differently than  
6 in “normal” declaratory judgment actions. Dkt. #12 at 7 (citing *Royal Caribbean Cruises, Ltd.*  
7 *v. Whitefield*, 664 F. Supp. 2d 1270, 1276 (S.D. Fla. 2009) and *Lady Deborah, Inc. v. Ware*, 855  
8 F. Supp. 871, 875 (E.D. Va. 1994)). Defendant relies upon the “saving to suitors” clause, 28  
9 U.S.C. § 1333, which allows seamen to bring Jones Act claims in state court, and 28 U.S.C.  
10 § 1445, which prohibits the removal of state Jones Act claims to federal court, to argue that he  
11 has a right to have his Jones Act claims heard in state court. Dkt. #12 at 7–8. Further, Defendant  
12 further points to a seaman’s entitlement to a jury trial on maintenance and cure claims when  
13 brought with Jones Act and unseaworthiness claims. Dkt. #12 at 8 (citing *Fitzgerald v. U.S.*  
14 *Lines Co.*, 374 U.S. 16 (1963)). From these sources, Defendant argues that allowing the  
15 declaratory judgment action to go forward in this case would potentially prejudice his right to  
16 have a jury make relevant findings of fact related to his maintenance and cure claim. Dkt. #12  
17 at 8–12. Pointing to cases within this District and beyond, Defendant argues that the weight of  
18 authority strongly supports dismissing or staying this action as a matter of course. Dkt. #12 at  
19 9–12 (citing *Belle Pass Towing Corp. v. Cheramie*, 763 F. Supp. 1348 (E.D. La. 1991); *Coastal*  
20 *Alaska Premier Seafoods, LLC v. Redfern*, No. 18-345JCC, 2018 U.S. Dist. LEXIS 81813, 2018  
21 WL 2216191 (W.D. Wash. May 15, 2018); *Ocean Alaska, LLC v. Hutchison*, C07-294JLR, 2008  
22 U.S. Dist. LEXIS 116712, 2008 WL 313394 (W.D. Wash. Aug. 4, 2008)).  
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1 Plaintiff does nothing to rebut Defendant’s argument that a different rule or standard  
2 applies in the context of this case. The cases cited by Defendant do strongly support dismissal  
3 or a stay in the context of federal declaratory judgment actions and parallel state court Jones Act  
4 and unseaworthiness claims. But in many of those cases, the courts determined whether to  
5 exercise jurisdiction or defer to parallel state court proceedings by weighing “considerations of  
6 practicality and wise judicial administration,” in accordance with *Wilton*, and considerations of  
7 “judicial administration, comity, and fairness,” in accordance with *Camberlain*. Ultimately, the  
8 Court need not decide whether a different rule or standard applies in this case as dismissal or a  
9 stay is appropriate even under the ordinary considerations that guide the Court’s discretion in  
10 exercising jurisdiction over a declaratory judgment action.  
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12 Several of the normal considerations do not appear particularly relevant in the context of  
13 this case. The parties note that there is little risk of this Court needlessly deciding issues of state  
14 law as the issues are all governed by federal law. Dkts. #12 at 12–13; #17 at 9. The parties also  
15 believe that the opposing party is forum shopping. Plaintiff prefers to remain in federal court,  
16 where it filed its action, and Defendant prefers to litigate in state court, where he filed his action.  
17 Dkts. #12 at 13–15; #17 at 10–12. As this will generally always be the case in cases such as this  
18 and as nothing egregious tips the scales here, the consideration is of little use.  
19

20 More helpful are the considerations of avoiding duplicative litigation, piecemeal  
21 resolution of disputes, procedural fencing, and the entanglement of the state and federal courts.<sup>2</sup>  
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24 <sup>2</sup> The parties, separately or jointly, also address whether the declaratory judgment action will  
25 violate the spirit of diversity removal provisions, is “defensive,” is convenient to the parties, is  
26 the only available remedy, will settle the controversy, will clarify and settle the legal relations at  
the issue, and will afford relief from the uncertainty, insecurity, and controversy giving rise to the  
proceeding, and how far the federal action has advanced. Dkts. #12 and #17. The Court finds  
that these are generally subsumed into the considerations the Court has identified or not  
particularly relevant to this action.

1 Defendant argues, in sum, that the declaratory judgment action “segregates a single issue related  
2 to [Defendant’s] maintenance claim from the remaining maintenance issues,” will cause  
3 duplicative use of certain witnesses and evidence, and will entangle the state and federal courts  
4 or present a risk of inconsistent results.<sup>3</sup> Dkts. #12 at 15–21; #21 (relying on numerous maritime  
5 cases). Plaintiff counters that the declaratory judgment action will resolve an “‘arcane’ question  
6 of maritime law” which can be decided separately and expediently to settle the dispute between  
7 the parties on this issue. Dkt. #17 at 12–16 (relying on two maritime cases).<sup>4</sup>  
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9 On balance, the Court finds that dismissal or a stay of the federal action is appropriate in  
10 this circumstance. The record perhaps supports that the Court *could* maintain jurisdiction and  
11 avoid interfering with the state court action. But the record does not establish that the Court  
12 *should* maintain jurisdiction in furtherance of practicality, wise judicial administration, comity,  
13 and fairness. The federal declaratory judgment action will not resolve the whole controversy  
14 between the parties and the state court action will still have to proceed. This is the essence of  
15 piecemeal resolution and all disputes related to Defendant’s injuries onboard the Scandies Rose  
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19 <sup>3</sup> Defendant also points out that “there is a split of authority between Washington and the Ninth  
20 Circuit regarding the standard applied to pretrial motions for maintenance.” Dkt. #12 at 20 (citing  
21 *Dean v. Fishing Co. of Alaska, Inc.*, 177 Wash.2d 399, 300 P.3d 815, 2013 A.M.C. 2228 (2013)  
and *Barnes v. Sea Haw. Rafting, LLC*, 889 F.3d 517, 2018 A.M.C. 939 (9th Cir. 2018)).  
Defendant believes this split motivated Plaintiff to file this action.

22 <sup>4</sup> The two main cases relied upon by Plaintiff, in which the court declined to dismiss or stay the  
23 federal declaratory judgment action, are distinguishable—as Defendant notes in his Reply. Dkt.  
24 #21 at 3. In *Fourth Shipmor Assocs. v. Lee*, 1996 A.M.C. 1695, 1996 WL 468753 (E.D. Cal.  
25 Jan. 4, 1996), the court retained jurisdiction where the state court had stayed the maintenance and  
26 cure action and the court found there was no evidence of forum shopping and the action was  
confined to federal law issues which could be quickly resolved. In *First Shipmor Assocs.*, 1993  
A.M.C. 2007, 1993 WL 181382, 1993 U.S. Dist. LEXIS 7291 (N.D. Cal. May 26, 1993), the  
state court action was filed five months after the federal court action, the federal action could be  
quickly resolved through alternative dispute resolution, and the plaintiff had “already paid the  
entire disputed amount into the Court’s registry.”

1 should be resolved in a single state court action.<sup>5</sup> Accordingly, the Court will stay this action  
2 pending resolution of the state court action.

3 **IV. CONCLUSION**

4 Having reviewed Defendant's Motion, along with the remainder of the record, the Court  
5 hereby finds and ORDERS:

6 1. The Defendant's Motion to Dismiss Declaratory Judgment Action. (Dkt. #12) is  
7 GRANTED in part.

8 2. This matter shall be STAYED pending resolution of the state court proceeding.

9 3. The parties are INSTRUCTED to file a Status Report within 30 days of the completion  
10 of the state court proceedings.

11 Dated this 24<sup>th</sup> day of October 2018.

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14 RICARDO S. MARTINEZ  
15 CHIEF UNITED STATES DISTRICT JUDGE  
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23 <sup>5</sup> The Court notes that this result is consistent with two prior cases before this Court. *Coastal*  
24 *Alaska Premier Seafoods, LLC v. Redfern*, C18-345JCC, 2018 U.S. Dist. LEXIS 81813, 2018  
25 WL 2216191 (W.D. Wash. May 15, 2018) (Judge Coughenour deciding to stay a federal  
26 declaratory judgment action that was filed five days prior to the filing of a state court maritime  
action); *Ocean Alaska, LLC v. Hutchison*, C07-294JLR, 2008 U.S. Dist. LEXIS 116712, 2008  
WL 3103394 (W.D. Wash. Aug. 4, 2008) (Judge Robart deciding to stay a federal declaratory  
judgment action that was filed more than two months prior to the filing of a state court maritime  
action).