



Association of Transportation Law Professionals

Highlights Blog: Maritime Update, July 21, 2023

A Yacht Owner's Breach of a Crew Warranty Did Not Defeat Insurance Coverage For Vessel Destroyed in Hurricane

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In late June, a panel of the Eleventh Circuit held that a marine insurer who filed a declaratory judgment action against its insured was not entitled to an adjudication that there was no coverage under the hull and machinery policy for the sinking and total loss of a 92-foot pleasure yacht. Specifically, in *Travelers Property Casualty Co. of America v. Ocean Reef Charters, LLC*, -- F.4th -- (11th Cir. 2023), 2023 WL 4140764, the Court recognized that there were not any "well entrenched federal maritime rules governing captain or crew warranties" under the federal general maritime law. Accordingly, in compliance with the Supreme Court decision in *Wilburn Boat Co. v. Fireman's Fund Ins. Co.*, 348 U.S. 310 (1955),^[1] state law applied to the construction of the express crew warranty under the marine policy. The Panel ruled that Travelers, the marine insurer, failed to prove that the insured's breach of the captain and crew express warranty during a Category 4 hurricane caused the loss of the insured vessel under Florida Law.

The MY LADY is Catastrophically Damaged During Hurricane Irma

In September 2017, the pleasure yacht MY LADY was destroyed during Hurricane Irma while moored to a dock behind the private residence of an Ocean Reef Charters, LLC (Ocean Reef) representative in Pompano Beach. At the time of the loss, Travelers Property and Casualty Company of America (Travelers) insured the MY LADY under a marine insurance policy with policy limits of \$2 Million. Although the MY LADY was secured to ten concrete pilings, the vessel sank when a mooring piling was dislodged during the storm, forcing the vessel against a cement wall causing the hull to crack. The yacht was a total loss. There is no dispute that the MY LADY was not manned at the time of the loss.

Travelers Files a Declaratory Judgment Action in New York

Travelers filed a complaint for declaratory judgment in the Western District of New York on the basis that the principal office of Ocean Reef was located in Rochester, New York. Travelers asserted that the loss of the MY LADY was not covered under the marine policy because Ocean Reef violated the express policy warranty requiring that the vessel be manned with a licensed captain and crew at the time of the loss. New York state law was favorable to Travelers and excluded coverage for any loss if the insured was in breach of certain express warranties under the policy, regardless of whether the breach caused the loss, in whole or in part.^[2]

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The Lawsuit is Transferred to Florida—Where the Law is Less Favorable to Travelers

The New York court granted Ocean Reef's motion to transfer the lawsuit to the Southern District of Florida pursuant to 28 U.S.C. § 1404(a). The Court held that the case was properly in Florida, given that the loss occurred in Florida and a Florida venue was more convenient for the witnesses. Notably, Florida law was more favorable for Ocean Reef. In Florida, the mere breach of an express warranty would not defeat coverage under the policy. Rather Florida law required that Travelers prove that Ocean Reef's failure to comply with the express warranty of the policy was the cause of the loss.

Travelers Cannot Prove That The Breach of the Warranty Caused the Loss

Travelers filed a motion for summary judgment against Ocean Reef asserted that Ocean Reef's failure to comply with the captain and crew warranty avoided coverage under the Travelers policy for the destruction of the MY LADY. The Florida District Court granted Travelers' motion for summary judgment. The Eleventh Circuit, however, reversed the summary judgment ruling holding that there were not any "entrenched federal maritime rules governing captain or crew warranties".^[3] The Eleventh Circuit remanded the case to the District Court on the basis that Travelers was required to prove under Florida state law that Ocean Reef's "failure to retain a full time captain played any part in the loss under Florida's anti-technical statute."^[4]

Travelers Fails to Offer Expert Testimony

On remand, Travelers did not offer expert testimony that Ocean Reef's strict compliance with the captain and crew warranty caused the total loss of the MY LADY. The Florida District Court granted Ocean Reef summary judgment on the warranty issue. The Eleventh Circuit affirmed the District Court decision. Accordingly, Travelers was ultimately liable for the loss of the MY LADY.

^[1] The Supreme Court decision in *Wilburn Boat* is a landmark opinion construing marine insurance under the federal general maritime law. In *Wilburn Boat*, the Court held that absent well entrenched federal precedent, state law applied to marine insurance policies. The Supreme Court determined that there was no well entrenched federal precedent for the warranties in *Wilburn Boat*.

^[2] See *Travelers Prop. Cas. Co. of Am. v. Ocean Reef Charters LLC*, 996 F.3d 1161, 1167-68 (11th Cir. 2021).

^[3] *Travelers*, 996 F.3d at 1169, 1171.

^[4] *Id.* at 1170 quoting *Pickett v. Woods*, 404 So. 2d 1152, 1153 (Fla. 5th Cist. Ct. App. 1981).