

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ALABAMA

Horn v. Effort Shipping Co., Ltd., and Atlantis Marine, P.G., S.A.

777 F. Supp. 927 (S.D. Ala. 1991) · No. Civ. A. No. 89-0211-AH · Decided November 13, 1991

SUMMARY

The court considered whether it could exercise personal jurisdiction over Effort Shipping Co., Ltd. and Atlantis Marine, P.G., S.A. in a longshoreman personal-injury action arising from an accident aboard a vessel in the Port of Mobile. It held that Atlantis Marine had sufficient minimum contacts with Alabama and that exercising jurisdiction was consistent with fair play and substantial justice. The court deemed Effort Shipping to have waived its personal-jurisdiction defense because it did not brief the issue.

CASE DETAILS

COURT	United States District Court for the Southern District of Alabama
WRITING FOR THE COURT	Chief Judge Howard
JURISDICTION	Alabama
DECIDED	November 13, 1991
DOCKET	Civ. A. No. 89-0211-AH
DISPOSITION	other
PROCEDURAL POSTURE	The court considered whether it could exercise in personam jurisdiction over the defendants in a removed personal-injury action. Atlantis Marine challenged service and jurisdiction; the court evaluated jurisdiction based on the pleadings and affidavits without conducting a discretionary evidentiary hearing. Effort Shipping did not brief the jurisdictional issue.
STANDARD OF REVIEW	When no discretionary evidentiary hearing is held on a jurisdictional motion, the plaintiff must establish a prima facie case of personal jurisdiction. The court accepts uncontroverted allegations as true and construes conflicts between the complaint and affidavits, and reasonable inferences, in the plaintiff's favor.
PRECEDENTIAL VALUE	Published federal district court opinion

PARTIES

M.D. Horn, Lucy B. Horn v. Effort Shipping Co., Ltd., Atlantis Marine, P.G., S.A.

TOPICS

personal jurisdiction admiralty personal injury negligence civil procedure

PRACTICE AREAS

civil procedure admiralty personal injury torts constitutional law

QUESTIONS PRESENTED

1. Whether Atlantis Marine had sufficient contacts with Alabama to support the exercise of specific personal jurisdiction under Alabama's long-arm statute and the Due Process Clause.
2. Whether exercising personal jurisdiction over Atlantis Marine would comport with traditional notions of fair play and substantial justice.
3. Whether Effort Shipping waived its personal-jurisdiction defense by failing to brief the issue.

HOLDINGS

1. Atlantis Marine had constitutionally sufficient minimum contacts with Alabama because it purposefully operated the M/V Rhapsody in the Port of Mobile, and the plaintiffs' injury arose out of activities conducted there.
2. Exercising personal jurisdiction over Atlantis Marine was reasonable and did not offend traditional notions of fair play and substantial justice.
3. Effort Shipping waived the personal-jurisdiction issue by failing to brief it after the court directed the parties to address the issue.

KEY QUOTATIONS

"Purposeful availment" of the forum and not ownership in the instrument of the accident is the touchstone of "minimum contacts" analysis" (at 931)

"While Atlantis Marine's contacts with this forum may indeed have been minimal, they were yet substantial enough to qualify as the constitutionally required "minimum contacts," and assertion of personal jurisdiction over that defendant does not offend "traditional notions of fair play and substantial justice."" (at 932)

FACTUAL BACKGROUND

M.D. Horn, a longshoreman, was injured in May 1987 while descending a Jacob's ladder furnished by the crew of the M/V Rhapsody in the Port of Mobile, Alabama. The ladder broke, causing Horn to fall approximately twenty feet into the hold of an adjacent barge and suffer substantial injuries. Effort Shipping owned the vessel, while Atlantis Marine, a Panamanian corporation headquartered in Greece, operated it under an agreement made outside the United States. Atlantis Marine brought the vessel into Mobile for loading and unloading cargo, and the alleged injury occurred during that operation.

PROCEDURAL HISTORY

The action was removed to the Southern District of Alabama on federal-question and diversity grounds. Atlantis Marine was initially dismissed after plaintiffs failed to respond to its motion to quash service and dismiss, but the dismissal was later reversed and both defendants answered. Following an order directing briefing and affidavits on personal jurisdiction, the court found personal jurisdiction over Atlantis Marine and deemed Effort Shipping to have waived the jurisdictional defense by failing to brief it.

DISPOSITION

other

CASES CITED

- Madara v. Hall, 916 F.2d 1510 (11th Cir. 1990)
- Morris v. SSE, Inc., 843 F.2d 489 (11th Cir. 1988)
- Cable/Home Communication Corp. v. Network Productions, Inc., 902 F.2d 829 (11th Cir. 1990)
- Alexander Proudfoot Co. World Headquarters L.P. v. Thayer, 877 F.2d 912 (11th Cir. 1989)
- International Shoe Co. v. State of Washington, International Shoe Co. v. Washington, 326 U.S. 310 (1945)
- Milliken v. Meyer, 311 U.S. 457 (1940)
- Burger King Corp. v. Rudzewicz, Burger King Corp. v. Rudzewicz, 471 U.S. 462 (1985)
- Shaffer v. Heitner, 433 U.S. 186 (1977)
- Keeton v. Hustler Magazine, Inc., 465 U.S. 770 (1984)
- Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408 (1984)
- World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980)
- Hanson, Executrix, et al. v. Denckla et al., Hanson v. Denckla, 357 U.S. 235 (1958)
- McGee v. International Life Insurance Co., 355 U.S. 220 (1957)
- Asahi Metal Industry Co. v. Superior Court, 480 U.S. 102 (1987)