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Appeals court expands admiralty law in diving accident

Posted on June 10th, 2016 Written by [Jim Flannery](#)

A federal appeals court ruled that an injury suffered on a recreational boat anchored in a shallow though navigable recreational bay falls under admiralty jurisdiction despite a 1972 U.S. Supreme Court decision that narrows admiralty's purview a bit to weed out "absurd" cases that have little to do with maritime commerce.

In its 1972 decision, the Supreme Court said it wanted to exclude from admiralty's reach cases such as airplanes crashing into lakes and swimmers colliding with each other, Chief Judge Robert Katzmann said in his June 1 opinion for New York's U.S. Second Circuit Court of Appeals.

But the high court also gave this guidance, he said: Ordinarily every injury involving a vessel on navigable waters falls within the scope of admiralty jurisdiction. Katzmann said this case was within that scope.

"The key issue on appeal is whether federal courts have admiralty jurisdiction over claims for injury to a passenger who jumped from a vessel in open navigable waters," the Second Circuit Court of Appeals panel said. "They do."

Whether it is a recreational or commercial vessel does not matter.

The stakes in the decision were high. On July 30, 2011, Matthew Ficara, then 27 and from Syracuse, N.Y., broke his neck doing a back flip off the back of Bruce Germain's 38-foot motorboat, *Game Day*, while it was anchored in Three Mile Bay, a popular anchorage on the north shore of New York's Oneida Lake. Ficara hit his head on the lake floor, suffering a spinal cord injury that left him a quadriplegic.

Ficara's lawyer sued Germain in state court, alleging negligence and saying that the skipper failed to operate the boat in a way that protected the safety of his passengers; failed to adequately instruct them in safe boating and diving; failed to adequately inspect the anchorage area, and failed to warn his passengers of dangerous conditions in the shallows.

Ficara's lawyer wanted to try the case in state court. Germain's lawyer filed a petition in U.S. District Court seeking "exoneration from or limitation of liability" under the federal Limitation of Liability Act of 1851, a provision of admiralty law that allows vessel owners to limit their liability to the value of the vessel.

The district court turned down Germain’s petition and sent the case to a state court, but the appellate court reversed that decision, saying it could be tried in federal court under admiralty law.

The facts met the Supreme Court’s test for an admiralty case, Katzmann said. The accident occurred on navigable water, could have disrupted commercial traffic and involved a traditional maritime activity.

The decision has “set the course for future courts to follow in applying the modern test for admiralty jurisdiction to a particular set of facts,” said James E. Mercante, Germain’s New York lawyer. It also widens admiralty’s reach in the interest of uniformity of admiralty law across the nation, he said.

The full opinion is available at <http://www.americanmaritimecases.com/assets/June-2016/Germain.pdf>

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