

## Maritime Update: Vessel Collision Suit Remanded

ATTORNEYS

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On October 15, 2015, a judge in the Middle District of Louisiana in the case *Langlois, et al v. Kirby Inland Marine, LP*, remanded a general maritime law suit to state court on its own motion. This ruling illustrates that although maritime disputes like this one can be removed, there is a growing chorus of district courts that hold that the 2011 amendments to the removal statute did not upset the long-established rule that general maritime law claims aren't removable to federal court absent an independent basis of federal jurisdiction.

### A. Background

Lynn and Rosemary Langlois owned two boats located on the Intercoastal Waterway in Iberville Parish. The M/V DIXIE VOLUNTEER, a vessel owned by Kirby Inland Marine, LLP, was traveling south in the Intercoastal Waterway in the vicinity of plaintiffs' houseboat and flatboat. At the same time, the M/V GOVERNOR MIKE HUCKABEE, a vessel owned by Blessey Marine Services, Inc., was traveling north in the vicinity of plaintiffs' vessels. Plaintiffs alleged that Kirby's vessel was traveling too close to the middle of the waterway, giving the Blessey vessel insufficient space to either change course or safely pass plaintiffs' vessels. The Blessey vessel collided with their vessels, causing extensive damage.

Plaintiffs filed suit against Kirby in Iberville Parish and Kirby removed the case to federal court. On September 15, 2015, the court ordered Kirby to explain why the case should not be remanded.

### B. Defendant's Argument

Kirby argued that there is a disagreement within the Middle District of Louisiana as to whether the 2011 amendments to the removal statute allow removal of general maritime claims and that the cases allowing removal were correctly decided.

### C. Discussion

Under the pre-2011 version of the removal statute, federal law was well settled that maritime tort actions commenced in state courts were not removable in the absence of an independent jurisdictional basis. The disagreement regarding whether general maritime law claims are removable without an independent basis for federal jurisdiction stem from the 2013 case *Ryan v. Hercules Offshore, Inc.*, a Southern District of Texas case.

Since the *Ryan* decision, some, but not all, district courts have followed *Ryan*, which held that the 2011 amendments to the removal statute permit removal of maritime cases that do not have an independent basis of federal jurisdiction. However, the number of district courts holding that the 2011 statutory amendments to the removal statute did not upset the rule that general maritime law claims are not removable absent an independent basis for federal jurisdiction is

growing.

#### D. Conclusion

The court concluded that the *Langlois* suit was *not* removable because there was no independent basis for federal jurisdiction.

#### E. Why is This Important?

1. The number of district courts aligned with the ruling in the *Langlois* case is growing, but the U.S. Fifth Circuit has not squarely addressed the issue.
2. Recognizing when a maritime suit is removable and how the removal will be viewed by the district court are important procedural considerations when defending a maritime suit filed in state court.
3. Arguments in favor of removal have not been entirely foreclosed, but a defendant should be prepared to respond to a district court's own motion to remand if the matter is removed to federal court without an independent basis of federal jurisdiction.