

Maritime Update: Maritime Lien Against a Boat Trailer?

ATTORNEYS

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On December 13, 2018, the U.S. District Court for the District of Hawaii, in the case *Barnes v. Sea Hawaii Rafting, LLC, et al.*, found that a trailer used to transport a 25-foot inflatable boat is an appurtenance of the vessel subject to *in rem* seizure. This case is significant because it addresses an issue of first impression: whether a trailer is an appurtenance of a vessel.

A. Background

Chad Barnes ("Barnes"), a seaman, was injured when the boat he was working on, the M/V Tehani ("Tehani"), exploded. As captain of the Tehani, Barnes took passengers from Honokohau Harbor on sightseeing and snorkeling trips along the Kona coast. On July 3, 2012, Kris Henry ("Henry") and Barnes were launching the Tehani for a night snorkeling trip. Henry was in the truck, towing the Tehani on an attached trailer, and Barnes was aboard the boat. Henry backed the trailer down the launch ramp until the vessel was in the water. When Barnes started the starboard engine, the Tehani exploded. The hatch struck Barnes on his back and head, propelling him into the ocean. Barnes filed suit in admiralty against Henry, SHR, the vessel owner and the Tehani, *in rem*, claiming unseaworthiness, negligence and intentional infliction of emotional distress. Barnes sought maintenance and cure, damages and attorneys' fees, but his employer was not insured for his injuries or damages. A vessel seizure was prompted after the suit had been pending for some time due to the defendants' failure to pay maintenance and cure.

B. The Dispute

On August 1, 2018, the court issued an Order Authorizing Issuance of Warrant for Maritime Arrest of the Tehani. The U.S. Marshal Service did not have the ability to take custody of the vessel. So, Barnes identified a substitute custodian that would serve only if the Tehani was arrested with its trailer. The court had to determine whether the trailer was an appurtenance of the Tehani subject to seizure.

C. Discussion

The Tehani is a 25-foot rigid hull inflatable boat powered by twin outboard engines. To determine whether something is an appurtenance, you must look to the relationship it bears to the actual service of the vessel (*i.e.* whether the property in question is "essential" or "necessary for the mission" of the vessel). The court noted that this factual analysis must be done on a case-by-case basis. The court found that the trailer was essential to the operation and mission of the Tehani and necessary to provide transportation, storage and maintenance. The court further concluded that the trailer on which the Tehani was secured was an appurtenance to which Barnes' maritime lien attached. Thus, the trailer was subject to arrest by the U.S.

Marshals to enforce Barnes' maritime lien.

D. Why is This Important?

1. If your maritime excursion operations are not properly insured, an accident like this one can put you out of business.
2. Failing to pay a seaman maintenance and cure can result in maritime assets being seized.
3. Developing key facts can help solidify or dispel arguments that an alleged appurtenance is or is not subject to *in rem* seizure.