

# **RECENT DEVELOPMENTS IN ADMIRALTY AND MARITIME LAW AT THE NATIONAL LEVEL AND IN THE FIFTH AND ELEVENTH CIRCUITS**

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**I. INTRODUCTION**

This is the eighth paper in a series of annual reports on U.S. admiralty and maritime law and practice.<sup>1</sup> In these papers we try to call attention to the principal

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<sup>1</sup> The preceding seven papers are David W. Robertson & Michael F. Sturley, *Recent Developments in Admiralty and Maritime Law at the National Level and in the Fifth and Eleventh Circuits*, 32 TUL. MAR. L.J. 493 (2008) [hereinafter 2007 *Recent Developments*]; David W. Robertson & Michael F. Sturley, *Recent Developments in Admiralty and Maritime Law at the National Level and in the Fifth and Eleventh Circuits*, 31 TUL. MAR. L.J. 463 (2007) [hereinafter 2006 *Recent Developments*]; David W. Robertson & Michael F. Sturley, *Recent Developments in Admiralty and Maritime Law at the National Level and in the Fifth and Eleventh Circuits*, 30 TUL. MAR. L.J. 195 (2006) [hereinafter 2005 *Recent Developments*]; David W. Robertson & Michael F. Sturley, *Recent Developments in Admiralty and Maritime Law at the National Level and in the Fifth and Eleventh Circuits*, 29 TUL. MAR. L.J. 369 (2005) [hereinafter 2004 *Recent Developments*]; David W. Robertson & Michael F. Sturley, *Recent Developments in Admiralty and Maritime Law at the National Level and in the Fifth and Eleventh Circuits*, 16 U.S.F. MAR. L.J. 147 (2004) [hereinafter 2003 *Recent Developments*]; David W. Robertson & Michael F. Sturley, *Recent Developments in Admiralty and Maritime Law at the National Level and in the Fifth and Eleventh Circuits*, 27 TUL. MAR. L.J. 495 (2003) [hereinafter 2002 *Recent Developments*]; David W. Robertson & Michael F. Sturley, *Recent Developments in Admiralty and Maritime Law at the National Level and in the Fifth and Eleventh Circuits*, 26 TUL. MAR. L.J. 193 (2001) [hereinafter 2001 *Recent Developments*].

national-level developments that bear on the work of admiralty judges, lawyers, and scholars, and we look more closely at the relevant work of the U.S. Courts of Appeals for the Fifth and Eleventh Circuits. We do not warrant full coverage, although with respect to the Fifth and Eleventh Circuit Courts of Appeals, we try to be fairly thorough.<sup>2</sup>

## **II. MISCELLANEOUS DEVELOPMENTS AT THE NATIONAL LEVEL**

### **A. Jones Act venue provision repealed.**

When Congress enacted the 2006 recodification<sup>3</sup> of the Jones Act as 46 U.S.C. § 30104, it included a subsection (b) that provided:

An action under this section shall be brought in the judicial district in which the employer resides or the employer's principal office is located.<sup>4</sup>

Congress has now deleted this venue provision.<sup>5</sup> The deletion is declared to “be effective as if included in the enactment of Public Law 109-304 [the 2006 recodification].”<sup>6</sup> In its entirety,<sup>7</sup> therefore, the Jones Act now reads:

A seaman injured in the course of employment or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal

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<sup>2</sup> We include selected district court decisions for their information value. But remember that “[a] decision by a federal district judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case.” 18 MOORE’S FEDERAL PRACTICE § 134.02[1][d], p. 138-24.1 (3d ed. 2007). See also *Fishman & Tobin, Inc. v. Tropical Shipping & Construction Co.*, 240 F.3d. 956, 965 & n.14 (11th Cir. 2001) (emphasizing that federal district court decisions have “no precedential value” and stating that “the only courts [the Southern District of Florida] must be obedient to are this Circuit and the Supreme Court”).

<sup>3</sup> See 2007 *Recent Developments*, *supra* note 1, at 500.

<sup>4</sup> 46 U.S.C. § 30104(b) (2006) (repealed 2008, effective 2006).

<sup>5</sup> Public Law 110-181, § 3521(b), 122 Stat. 596 (2008).

<sup>6</sup> *Id.*

<sup>7</sup> Sometimes 46 U.S.C. § 30105 is misleadingly cited as part of the Jones Act. This is misleading because the effect of § 30105 is to make the U.S. maritime law doctrines that protect injured workers—including but not limited to the Jones Act—inapplicable to most foreign offshore oil and gas workers regardless of whether the workers are seamen.