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Recent Developments: Yamaha Motor Corp., U.S.A. v. Calhoun: State Wrongful Death and Survival Remedies Remain Applicable to Cases Arising from Accidents Involving Nonseamen in Territorial Waters

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Yamaha Motor Corp., U.S.A. v. Calhoun:

STATE WRONGFUL DEATH AND SURVIVAL REMEDIES REMAIN APPLICABLE TO CASES ARISING FROM ACCIDENTS INVOLVING NONSEAMEN IN TERRITORIAL WATERS.

In *Yamaha Motor Corp., U.S.A. v. Calhoun*, 116 S. Ct. 619 (1996), the Supreme Court of the United States held that the federal maritime wrongful death action recognized in *Moragne v. States Marine Lines, Inc.*, 398 U.S. 375 (1970), does not preempt application of state wrongful death and survival statutes when applied to accidents involving nonseamen in territorial waters. By distinguishing between seamen and nonseamen, the Court reemphasized the need for uniformity amongst actions brought by seamen without limiting the remedies available to nonseamen.

Natalie Calhoun, the petitioners' twelve-year-old daughter, was killed in Puerto Rico's territorial waters. Natalie was riding the Yamaha "WaveJammer" jet ski she had rented when it collided with an anchored vessel.

The Calhouns sued Yamaha in the United States District Court for the Eastern District of Pennsylvania, invoking Pennsylvania's wrongful death and survival statutes. Yamaha moved for partial summary judgment asserting that the federal maritime wrongful death action recognized in *Moragne* provided an exclusive remedy which displaced all remedies available under state law.

The district court agreed that the maritime death action in *Moragne* preempted state remedies, but did not agree with Yamaha as to the scope of compensation available under *Moragne*. Following a request

from both parties, the district court certified an order presenting questions for immediate interlocutory appeal pursuant to 28 U.S.C. § 1292(b). Although these questions were limited to determining the remedies which were available under *Moragne*, the Court of Appeals for the Third Circuit ultimately determined that the fundamental issue of controlling law was incorrectly decided by the district court. The Supreme Court of the United States subsequently granted certiorari to determine whether the federal maritime wrongful death action recognized in *Moragne* provided the exclusive remedy in cases involving the deaths of nonseamen in territorial waters.

The Court began its analysis by noting that the court of appeals had jurisdiction to determine the anterior issue of controlling law although the issue was not directly presented for appellate review. Specifically, the Court found that under 28 U.S.C. § 1292(b) the district court order itself was appealable since it involved a controlling question of law. *Yamaha*, 116 S.Ct. at 623. Therefore, "[the court of appeals] may address any issue fairly included within the certified order." *Id.*

Turning to the issue of controlling law, the Court first recognized that the Calhouns' claim fell within admiralty jurisdiction because it involved a watercraft collision on navigable waters. *Id.* The Court also noted that exercise of admiralty

jurisdiction does not automatically preempt state law. *Id.* The Court reviewed more than a century's history of maritime wrongful death actions beginning with *The Harrisburg*, 119 U.S. 199 (1886), which denied the existence of maritime wrongful death actions in United States common law. *Id.* at 624. To mollify *The Harrisburg's* rule, federal admiralty courts allowed state wrongful death and survival statutes to supplement federal maritime law. *Id.* The federal admiralty courts found that this practice was not irreconcilable with the maritime policies of legal harmony and uniformity in interstate and international relations. *Id.*

However, in a series of cases after 1944, the Court altered the previously ambiguous doctrine of unseaworthiness by pronouncing that the doctrine mandated an absolute duty to provide a safe ship, the failure of which subjected the shipowner to strict liability. *Id.* at 625 (citing *Miles v. Apex Marine Corp.*, 498 U.S. 19 (1990)). This standard evolved into the primary basis of recovery for injured and killed seamen, superseding the federal admiralty courts' use of negligence-based state wrongful death statutes. *Id.* at 625 (citing *Miles*, 498 U.S. at 25-26)).

Next, the Court reviewed its decision in *Moragne* which hinged on the interplay between the doctrine of unseaworthiness and Florida's wrongful death and survival

statutes. *Id.* at 625. While maritime law looked to state standards of liability for recovery, Florida's wrongful death statute did not encompass the doctrine of unseaworthiness. *Id.* Due to this incompatibility between federal maritime law and Florida's wrongful death statute, Mrs. Moragne's wrongful death suit based on the doctrine of unseaworthiness was dismissed in the district court and affirmed in the court of appeals. *Id.* (citing *Moragne*, 398 U.S. at 377). Unsatisfied with the frequent unavailability of the doctrine of unseaworthiness as a basis of liability under state law, the Court overruled *The Harrisburg* and "held that an action 'lie[s] under general maritime law for death caused by violation of maritime duties.'" *Id.* (citing *Moragne*, 398 U.S. at 409).

The Court refuted Yamaha's argument that the rule stated in *Moragne* created a federal maritime wrongful death scheme which preempted application of all state wrongful death remedies to deaths occurring in territorial waters. *Id.* at 626. While recognizing that Yamaha's emphasis on uniformity was proper, the Court stressed that it was improperly placed. *Id.* at 625-26. The Court emphasized that the focus in *Moragne* concerned seamen and was compelled by the existence of situations which disparately precluded recovery in maritime wrongful death cases. *Id.* at 626.

By creating a federal

maritime wrongful death action, *Moragne* sought to extinguish the discrepancies that existed when States inadequately attempted to incorporate substantive federal maritime concepts into common law negligence concepts under *The Harrisburg* ruling. *Id.* at 627 (citing *Moragne*, 398 U.S. at 401). The Court concluded that *Moragne* focused on extending relief to those who had been inhumanely and disparately deprived of causes of action and remedies due to arbitrary distinctions. *Id.* at 627. Consequently, the Court affirmed the judgment of the appellate court, finding that the remedies available to the Calhouns were governed by Pennsylvania's wrongful death and survival statutes which remained applicable as a supplement to federal maritime law. *Id.* at 627-28.

By allowing state wrongful death and survival statutes to supplement federal maritime law, the Supreme Court of the United States clarified the spirit of its decision in *Moragne* which was to provide, at a minimum, a federal remedy for maritime wrongful death actions without displacing applicable state law. This intertwinement of federal and state remedies provides a safety net ensuring that nonseamen victims' families will be afforded legal redress in today's era of major tort reform.

- Natalie Drinkard

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- Education:** *Johns Hopkins University, A.S.; University of Baltimore School of Law, J.D. (cum laude), 1982.*
- Position:** *County Attorney, Harford County (February 1993 to present).*
- Process for Position:** *Appointment by the Harford County Executive and approval by the County Council.*
- Scope of Duties:** *Manage County law office of eight attorneys, which handles all litigation related to County entities; brief County Executive on important matters and interface with County Council; responsible for department budget, attorney assignments and work flow; interface with citizens, resolve inquires, and conduct settlement and other negotiations.*
- Past Positions:** *Partner (Limited), Weinberg & Green, 1988-92; Associate, Venable, Baetjer and Howard, 1983-87; Law Clerk to the Honorable Marvin H. Smith, Court of Appeals of Maryland, 1982-83.*
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- Advice for Young Lawyers:** *There is always time to do it right! Ethics cannot be stressed enough. Young lawyers need to help elevate the profession by viewing it as a career, rather than a nine to five job. It is an honored profession which entitles us to certain powers and benefits that other positions do not have. Consequently, we have responsibilities which should be taken seriously. We should be examples to our community by providing volunteer work or pro bono services.*