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Libel and Slander at Sea

By Marilyn Raia

Nearly every week someone is in the news apologizing for writing or saying something false about someone else. Libel is a disseminated written false statement about someone, damaging that person's reputation. Slander is a spoken false statement about someone, damaging that person's reputation. Sometimes libelous or slanderous language is used in a maritime context. If litigation follows, it may fall within the admiralty jurisdiction granted to the federal courts by the US Constitution.

Admiralty Jurisdiction Basics

Article III, Section 2, clause 1 of the US Constitution grants power to the federal courts to decide admiralty cases. When a case is filed in federal court under the court's admiralty jurisdiction, the court must first determine whether indeed the action falls within its admiralty jurisdiction. To do so, the court considers whether the incident occurred on the navigable waters, whether the incident could affect maritime commerce, and whether the incident had a sufficient nexus to traditional maritime activity. If not, then there is no federal admiralty jurisdiction and the federal court cannot decide the case. (See "Admiralty Jurisdiction- What Does that Mean?" Pacific Maritime Magazine, November 2013). The existence of admiralty jurisdiction has been addressed by the courts in some interesting libel and slander cases.

Admiralty Jurisdiction Found

A frequently cited case holding admiralty jurisdiction existed, and federal admiralty law governed in a slander case is *Wells v. Liddy*, 186 F.3d 505 (4th Cir. 1999) which arose out of the 1972 break-in and burglary at the Democratic National Headquarters in the Watergate complex in Washington DC. Gordon Liddy was convicted of various crimes in connection with the break-in and burglary, and served time in prison.

In 1991, two men wrote a book asserting a new theory about the break-in and burglary. They contended it was not for the purpose of replacing a listening device installed in the telephone used by the executive director, Spencer Oliver, and his secretary, plaintiff Wells. Rather, they contended it was for the purpose of obtaining photographs and records pertaining to a call-girl operation allegedly being conducted at the headquarters using that phone. Those photographs and records were supposedly kept in Wells' locked desk.

After his release from prison, Liddy became a frequent speaker on the lecture circuit. He spoke extensively about the theory in the 1991 book and stated Wells' locked desk contained pictures of prostitutes for men who visited the Democratic National Headquarters. His speeches implied Wells was involved in immoral criminal acts, i.e. procuring prostitution services. Liddy gave one of his speeches to an audience on a cruise ship in the Mediterranean Sea.

Wells sued Liddy for slander in a federal district court in Maryland. The district court held Louisiana law should apply because that is where Wells lived. The district court further held that to recover under Louisiana law, Wells had to prove by clear and convincing evidence there was a malicious intent on Liddy's part when making the statements about her. She was not able to meet her burden of proof, resulting in summary judgment in Liddy's favor. Wells appealed.

The Fourth Circuit disagreed with the district court that Louisiana law should apply to Liddy's statements about Wells made on the cruise ship. It noted all cases involving a tort such as slander on the navigable waters are within the court's federal admiralty jurisdiction and



governed by general federal maritime law, which does not require a malicious intent. It reversed the district court's judgment with respect to the statements Liddy made on the cruise ship. It held a statement implicating Wells in a prostitution ring could harm her reputation, which was the standard to be applied. It also held the jury had to determine whether the statement actually harmed Wells.

Admiralty jurisdiction was also found to exist in *Papageorgiou v. Lloyds of London* 436 F.Supp.701 (E.D.Pa.1977) but the district court declined to exercise it. The plaintiffs were the chief mate and second mate on the **SS *Agia Irene***, a Greek registered vessel. Its owners were Greeks operating a Panamanian corporation. Hull insurers at Lloyds of London insured the vessel. On a voyage from Spain to Belgium, the vessel sank.

The plaintiffs contended the insurers interfered with the Greek investigative proceedings about the sinking for the purpose of avoiding paying claims. The plaintiffs also contended that as a result of the insurers' influence in the Greek proceedings, they were falsely imprisoned and their reputations as merchant marine officers were damaged by what the insurers said and did.

The plaintiffs were Greek but had moved to the United States after the sinking because of what had happened to them. They sued the insurers in a federal court in Pennsylvania pursuant to the court's admiralty jurisdiction. The underwriters challenged the existence of admiralty jurisdiction.

The district court held it had admiralty jurisdiction over the case. It reasoned although the acts complained of occurred on land rather than on the navigable waters, the false imprisonment and defamation arose out of the investigation of a maritime casualty. It noted the damage alleged was the loss of future maritime employment. Further, it found the allegations bore a strong relationship to traditional maritime activity.

Nonetheless, on *forum non conveniens* grounds, the court declined to exercise its admiralty jurisdiction to decide the case. (See, "The Court is Always Open- Sometimes" *Pacific Maritime Magazine*, May 2016). It noted all of the acts complained of occurred in Greece and there were no relevant witnesses or documentary evidence in the United States. It also noted the Pennsylvania court should not be burdened with a case having only a remote connection to the state and which was to be decided under Greek law.

Admiralty Jurisdiction Not Found

In *LaMontagne v. Craig*, 817 F.2d 556 (9th Cir. 1987), Craig, who was the chief engineer on the **SS *Mobile***, wrote a letter aboard the vessel about LaMontagne who was another officer. He sent it to the company's regional manager. The letter stated Montagne had "acted independently and in contravention of orders" and requested that he be reprimanded. The letter was received and read on land. LaMontagne sued Craig pursuant to the court's admiralty jurisdiction. He contended the letter resulted in his being denied a promotion to master of the vessel.

Craig moved for dismissal of the case on the ground the court lacked admiralty jurisdiction to decide it. The district court granted the motion. The Court of Appeals agreed. It held the wrong occurred on land where the letter was received and where the decision was made to not promote LaMontagne even though the letter itself was written on a vessel in navigation. Because the wrong did not occur on the navigable waterways, the court lacked admiralty jurisdiction to decide the case.



In *Crain v. American Waterways Corporation*, 1956 AMC 1806 (S.D.N.Y. 1956) the court also dismissed a libel suit based on the lack of admiralty jurisdiction. Crain was employed by American Waterways Corporation as the master of the ***SS National Liberty***. He was ordered to take the vessel to Baltimore for drydocking and inspection purposes. While under his command, the vessel was involved in a collision in Baltimore Harbor. Two days later, Crain was relieved of his command. Crain sued American Waterways for, among other things, slander. He alleged American Waterways informed people in the maritime industry that he was fired because he allowed his vessel to be involved in a collision, which resulted in liability being imposed on American Waterways. In fact, after a hearing, the US Coast Guard found Crain to have been blameless. Crain alleged the false statements made by American Waterways affected his reputation and cast doubt on his qualifications and competence, resulting a permanent loss of future income.

American Waterways defended the action on the ground the court lacked admiralty jurisdiction. The district court agreed and dismissed the case. Because the allegedly slanderous statements did not appear to have occurred on the navigable waters, the court held there was no constitutional basis for it to exercise its admiralty jurisdiction.

Statements made orally or in writing on the navigable waters or under circumstances involving maritime activity can give rise to a claim within a district court's admiralty jurisdiction and be governed by federal admiralty law.