

CORRECTION OF PRIOR ORDER MAKES MOTION TO DISMISS MOOT

JONES V. ASSOCIATED MARINE TERMINALS, LLC, ET AL.

These consolidated cases arose from the death of Ernest Harris, a Jones Act seaman, employed by Associated Marine Equipment, Harris was assisting crane operations at a mid-river terminal, in the Mississippi River. The crane was maneuvering a large barge cover, when the operator suddenly and without warning shifted the heavy barge cover, striking Harris in the head, causing him to fall into the Mississippi River and die. Two separate wrongful death lawsuits were filed, one by Ernest's mother, Sheila Jones, and one by Ernest's father, Robert Harris. Jones sued Associated Marine Terminals, LLC and Turn Services, LLC, alleging Jones Act negligence, general maritime law claims, and vessel negligence under §905(b) of the LHWCA. Robert Harris also sued Associated Terminals LLC and Turn Services, LLC, seeking to recover for Jones Act negligence and under the general maritime law for unseaworthiness or alternatively under the LHWCA and general maritime law. The cases were consolidated. The court granted the plaintiffs' motion to dismiss without prejudice their claims against Associated Terminals, LLC, Associated Marine Terminals, LLC, and Turn Services, LLC, which left only Associated Marine Equipment, LLC as the defendant in both proceedings. Associated Marine moved to dismiss Robert Harris's action, on the ground that Robert Harris lacked standing to assert Jones Act and general maritime law claims against Associated Marine because he is not his son's personal representative and because only Jones was appointed as the administratrix of their son's estate. Robert Harris opposed the motion, arguing he was recently appointed as an independent co-administrator of their son's succession, due to a defect in the original order attached to the petition. According to Robert Harris's submission, Jones and Robert Harris jointly petitioned the state court to amend its prior defective order and the request was granted. Because Robert Harris demonstrated that he was appointed as a co-administrator of his son's succession, the motion to dismiss was denied as moot. (USDC EDLA, June 13, 2018) 2018 U.S. Dist. LEXIS 99041