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## Questions Concerning the Uniformity of Admiralty Law Continue to Arise

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**Questions Concerning the Uniformity of Admiralty Law Continue to Arise**

Admiralty Group

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Since the very first Judiciary Act in 1789, litigants have had the right to sue in state, as distinguished from federal, court on admiralty and maritime claims. The federal courts have always retained exclusive jurisdiction over procedures that are unique to admiralty, such as the right to enforce a maritime lien by arresting the vessel herself, or limiting liability to the value of the ship at the end of the voyage. All other maritime claims may be pursued in either the federal or state courts. If a matter such as a crewman's injury proceeds in state court, the state court judge and jury are to decide the matter under federal substantive law, with the state rules of procedure governing. As one might imagine, courts and litigants have struggled with this distinction between substance and procedure for more than 200 years.

A particularly interesting dispute has arisen in Maryland. In *McCoy v. Weeks Marine and Dann Ocean Towing*, the tug crewman, an employee of Dann, was injured on a Weeks scow. After an eight day trial, the jury found Weeks negligent, Dann not negligent, and awarded an astonishing \$7 million in "non-economic" damages, often referred to as pain and suffering. We believe that the award was grossly disproportionate to the injuries suffered: a broken jaw and dislocated shoulder. But that is not the point.

Primarily in response to the medical malpractice "crisis," Maryland has enacted a cap on non-economic damages. In this case, the cap, if applicable, was \$620,000, which is less than one-tenth the jury award. After post-trial motions, the trial court ruled that the Maryland damages cap applied in this seaman's case and reduced the judgment accordingly. Not surprisingly, the seaman has appealed. This fascinating legal investigation of admiralty uniformity versus the primacy of state procedural law has not yet been briefed. We shall supplement *The Lookout* as appropriate.

Dann Ocean Towing was represented by **Geoffrey S. Tobias**.

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