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In re: The Exxon Valdez, Sea Hawk Seafoods, Inc. v. Exxon Corporation and Exxon Shipping Company United States Court of Appeals for the Ninth Circuit 484 F.3d 1098 (Decided April 16, 2007)

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COURT OF APPEALS FINDS PREJUDGMENT INTEREST A SUBSTANTIVE ISSUE UNDER ERIE DOCTRINE, AND THUS APPLIES STATE LAW GOVERNING PREJUDGMENT INTEREST.

The Court of Appeals for the Ninth Circuit found the district court to be in error for applying the federal law to determine prejudgment interest rates for recovery of losses arising from an oil spill under Alaskan state law. Since, under the Erie doctrine, a federal court exercising diversity jurisdiction must apply state law governing substantive legal issues, federal law can only control if there is federal preemption of state law.

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Plaintiff, Sea Hawk Seafoods ("Sea Hawk"), operates a seafood processing plant on Prince William Sound in Valdez, Alaska. Sea Hawk sued the defendants, ExxonMobil Corp. and Exxon Shipping Corp ("Exxon"), for damages arising out of the Exxon Valdez oil spill. The defendants' oil tanker ran aground on Bligh Reef off of Valdez on March 24, 1989, discharging 11 million gallons of oil into Prince William Sound. On March 31, 1989, Sea Hawk sued Exxon in Alaska state court for damages to its business arising out of the oil spill. Sea Hawk's claim arose under Alaska Statutes § 46.03.822 which imposes strict liability for harm resulting from the release of a hazardous substance.

The parties reached a settlement for the losses suffered by the plaintiff on April 4, 1990. However, plaintiff also joined in an amended and consolidated class action in federal district court. The federal claims asserted by plaintiff were voluntarily dismissed on September 6, 1992. The plaintiff had remaining state law claims for years other than 1989. These claims were removed to federal court on November 21, 1991 subject to 28 U.S.C. § 1332 governing diversity jurisdiction, with plaintiff moving to remand these claims to state court. The trial court denied plaintiff's motion, and the Court of Appeals, citing the removal of over 160 other state law cases relating to the oil spill,[1] affirmed the trial court's decision stating that the claims were properly removed under 28 U.S.C. § 1441(c).

The district court entered summary judgment against the plaintiff based on the holding of *Robins Dry Dock & Repair Co. v. Flint*,[2] holding that federal admiralty law preempted the plaintiff's state law claims. The 9th circuit reversed this decision in part and remanded, holding that federal maritime law did not preempt the state law claims.[3] The parties then reached an agreement on the remaining state law claims, but were unable to agree on the rate of prejudgment interest to apply to the principal amount of the settlement. The parties agreed to submit this issue to the district court. The district court relied on *Columbia Brick Works, Inc. v. Royal Insurance Co. of America*[4] to calculate the prejudgment interest under federal law. The rate was based upon two loss dates agreed upon by the parties, one in 1992 and one in 1993. The district court used these dates to calculate interest according to the treasury rate prescribed by 28 U.S.C. § 1961(a), as was done in *Western Pacific Fisheries, Inc. v SS President Grant*.[5] Using this method, the court selected the prejudgment interest rates of 4.11% for 1992 and 3.54% for 1993.

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[1] Eyak Native Vill. v. Exxon Corp., 25 F.3d 773, 774 (9th Cir. 1994).
[2] 275 U.S. 303 (1927).
[3] Baker v. Hazelwood (In Re Exxon Valdez), 270 F.3d 1215, 1253 (9th Cir. 2001).
[4] 768 F.2d 1066 (9th Cir. 1985).
[5] 730 F.2d 1280 (9th Cir. 1984).

The plaintiff appealed, arguing that state law should govern the determination of prejudgment interest, suggesting that prejudgment interest is a matter of substantive law. Under *Erie Railroad v. Tompkins*,[6] federal courts sitting in diversity cases must apply state substantive law and federal procedural law. Although *Erie* principles also apply to courts exercising pendant jurisdiction,[7] the basis of a federal court's jurisdiction is considered irrelevant for *Erie* purposes. In *Witzman v. Gross*, the court held that "where state law supplies the rule of decision, it is the duty of the federal courts to ascertain and apply that law."[8] Since federal jurisdiction in this case arises under 28 U.S.C. §1441(c), *Erie* principles apply equally in this situation.

It is considered *stare decisis* that prejudgment interest is a substantive part of a plaintiff's claim, not procedural for *Erie* purposes.[9] However, federal law can still preempt state law under the supremacy clause. Where a party argues that federal admiralty law preempts state law, as the defendant did here, the court applies a "balancing test that weighs state and federal interests on a case by case basis."[10]

In reaching its decision, the court applied the holding of *In re Exxon Valedez,*[11] which stated that state law claims for economic recovery are not preempted by federal law. Since, in part, the Alaskan state law claims brought by plaintiff sought to recover for economic harm in the form of prejudgment interest, state law was deemed to not have been preempted by federal law. While the defendant argued that the holding of *Columbia Brick Works v. Royal Insurance Company of America* [12] suggested that federal law should be applicable in this case, the 9th Circuit distinguished this holding, stating that the claim brought in the *Columbia* case was controlled by federal admiralty law. Therefore, the holding in *Columbia* suggests that prejudgment interest prescribed by federal law must be applied in cases governed by admiralty principles *only*. Here, since the claim arises under Alaskan state law only, the court held that prejudgment interest should be applied at rates applicable under state law.

The defendant made a last ditch effort to use judicial estoppel to bar the application of state law on appeal, since the plaintiff had argued solely for the application of federal law while in district court. However, the court dismissed this argument, noting that the plaintiff, in addition to rates prescribed by federal law, had properly requested the application of the interest rate of 10.5% available under Alaskan state law in the alternative.

The 9th Circuit concluded that the district court had erred in not applying Alaskan state law and its interest rate of 10.5% a year. The case was, therefore, reversed and remanded to apply the correct interest rate, and to adjudicate the dispute as to whether the interest should be compound or simple under Alaskan State law.

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[6] 304 U.S. 54 (1938).
[7] Mangold v Cal. Pub. Utils Comm'n, 67 F.3d 1470, 1470, 1478 (9th Cir. 1995).
[8] 148 F.3d 988, 990 (8th Cir. 1998).
[9] Mutuelles Unies v. Kroll & Linstom, 957 F.2d 707, 714 (9th Cir. 1992) ("In diversity jurisdiction, state law governs all awards of prejudgment interest."); Perceptron, Inc. v. Sensor Adaptive Machs., Inc., 221 F.3d 1120, 1134 (10th Cir. 2002) ("Prejudgment interest in a diversity action is thus a substantive matter governed by state law.").
[10] *In re Exxon Valdez,* 270 F.3d 1215, 1251 (9th Cir. 2001).
[11] *Id.* at 1253.
[12] 768 F.2d 1066 (9th Cir. 1985).