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### Gruver v. Lesman Fisheries, Inc. United States Court of Appeals for the Second Circuit 489 F.3d 978 (Decided June 6, 2007)

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**TWO PRONGS OF TEST FOR FEDERAL ADMIRALTY JURISDICTION SATISFIED BY  
PLAINTIFF, A DECKHAND INJURED IN WAGE DISPUTE.**

**A dispute between a seaman and his former maritime employer over unpaid wages  
gave rise to federal admiralty jurisdiction.**

Gruver v. Lesman Fisheries, Inc.  
United States Court of Appeals for the Second Circuit  
489 F.3d 978  
(Decided June 6, 2007)

The plaintiff-appellant, Jeff Gruver (“Gruver”), worked under the auspices of Lesman Fisheries, Inc. (“Lesman”) as a deckhand aboard the shrimp and crab boat the F/V SUNSET CHARGE (“Sunset Charge”) from May through June 2004. The vessel was owned and captained by Robert Lesman, who directly supervised Gruver during the two-month employment period. When Gruver left Lesman’s employ in June 2004 and began work on a different fishing vessel, the F/V ADVENTUROUS (“Adventurous”), his wages owed by Lesman had not been fully paid.

Gruver’s attempt to rectify this situation began when he confronted Lesman on the dock and demanded full recompense. Lesman thereafter mailed the final check to Gruver, but while it was still in transit, Gruver left a threatening message on Lesman’s answering machine. When Gruver received the check, he was unsatisfied with the amount, and left another phone message with Lesman, again threatening Lesman’s person and property if full payment was not provided.

On the night of June 18, 2004, while Gruver was in his bunk on board the Adventurous, Lesman boarded the vessel. At this point, the testimony diverges. Lesman claims that he merely sought to give Gruver the balance of his wages and that Gruver initiated a physical fight between them. Gruver says that, while he slept, he was attacked by Lesman in retaliation for the threats made. As a result of the incident, Gruver was severely injured, suffering broken ribs and a punctured lung.

In July 2004, Gruver initiated an admiralty action against Lesman for negligence and unpaid wages under 28 U.S.C. § 1333, 46 U.S.C. § 10602, and 45 U.S.C. § 56. Gruver filed an amended complaint in March 2005, again alleging negligence and unpaid wages under the admiralty law. The cause of action for unpaid wages was later dismissed by stipulation of the parties. Lesman then moved to dismiss the case pursuant to Federal Rule of Civil Procedure 12(b)(1), for lack of subject matter jurisdiction. The district court dismissed Gruver’s suit accordingly. The Court of Appeals for the Ninth Circuit reversed the district court’s dismissal of the case, recognizing a proper basis for federal subject matter jurisdiction, and remanded the case for an evaluation on the merits.

The Court of Appeals held that federal admiralty jurisdiction over this cause of action was proper because the two tests for jurisdiction over tort claims were satisfied by the plaintiff. The first test is the location test, which requires that the tort “occur on navigable water,” or if the injury was suffered on land, that it was “caused by a vessel on navigable water.”<sup>1</sup> The second test, the connection test, is a two-prong test, both of which must be satisfied for admiralty jurisdiction to be proper. First, the incident must have a potentially disruptive impact on maritime commerce, and second, the general character of the activity giving rise to the incident must be substantially related to traditional maritime activity.

The location test was satisfied in the instant case because the incident took place on a vessel docked in navigable waters. The first prong of the connection test was also satisfied because the incident clearly had the potential to disrupt maritime commerce, since it disabled a crew member of a fishing vessel. However, the second prong of the connection test is at issue here because of the

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<sup>1</sup> Jerome B. Grubart, Inc. v. Great Lakes Dredge & Dock Co., 513 U.S. 534 (1995).

difficulty and complexity of determining the activity that gave rise to the incident, and whether the incident is substantially related to traditional maritime activity.

In its consideration of the first part of the second-prong of the connection test, the district court held that the activity that gave rise to the physical altercation was Lesman's assault. But the Court of Appeals disagreed with this conclusion and held that that the assault itself cannot be both the incident and the activity giving rise to the incident under the connection test. Rather, the activity giving rise to the incident was Lesman's failure to pay wages, because it was the proximate cause of the injurious altercation. The court followed the analysis laid down in *Taghadomi v. United States*, which established that the relevant activity "is not merely the event immediately surrounding the injury[, but] the behavior of any 'putative tortfeasor[ ]...that is an 'arguably proximate cause[ ]' of the injury."<sup>2</sup> Furthermore, Gruver's threats were not a superseding intervening cause of the altercation because Lesman purportedly sought out Gruver on the night of the incident in order to resolve the wage dispute.

The second step of the analysis required a determination of whether the wage dispute was substantially related to traditional maritime activity. In so doing, the activity must not be characterized so broadly as to eliminate any maritime connection.<sup>3</sup> This was the error made by the district court when it found that the obligation to pay wages was "not in any way specific to admiralty law and therefore did not bear a substantial relationship to traditional maritime activity."<sup>4</sup> To the contrary, the Court of Appeals held that "paying seamen for their work at sea has a substantial relationship to traditional maritime activities."<sup>5</sup> The main purpose of admiralty law is to protect maritime commerce. Vessel owners are bound by a duty to pay workers for the very services that enable such commerce, the core of all maritime activity. Both prongs of the connection test were thus satisfied, providing federal admiralty jurisdiction for plaintiff's cause of action. The case was remanded to the district court for an evaluation on the merits.

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<sup>2</sup> 401 F.3d 1080, 1087 (9th Cir. 2005).

<sup>3</sup> *Grubart*, 513 U.S. at 534.

<sup>4</sup> *Gruver v. Lesman Fisheries, Inc.*, 489 F.3d 978, 986 (2d Cir. 2007).

<sup>5</sup> *Id.*