BLOG

Jones Act Survives Constitutional Challenge

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On January 20, 2026, Judge James E. Boasberg, Chief Judge of the U.S. District Court for the District of Columbia, dismissed a case challenging the constitutionality of section 27 of the Merchant Marine Act, 1920, known as the "Jones Act." The case was brought by Kōloa Rum Company against the U.S. Department of Homeland Security in February 2025.

The case seems to have been inspired by a November 2022 *Yale Law Journal* article written by Sam Heavenrich, which argued that the Port Preference Clause provided the "key to invalidating the Jones Act." That Clause provides that "No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another."

Kōloa alleged that the Jones Act--which restricts U.S. domestic maritime transportation to U.S.-flag vessels built in the United States and owned by qualified U.S. citizens-- violated that clause by discriminating against Hawaii so as "to prefer mainland U.S. ports over the ports of Hawai'i."

Judge Boasberg first had to consider whether Kōloa had standing and whether Kōloa's action was time-barred by the applicable statute of limitations (six years). Both the U.S. government and the defendant intervenors (American Maritime Partnership, Maritime Trades Department of the AFL-CIO, and Matson Navigation Company) had challenged Kōloa's right to bring the case.

Judge Boasberg determined, given the preliminary stage of the case, that Kōloa was injured in fact because it paid higher operational costs than if there was no Jones Act, that such injury was sufficiently connected to the Jones Act, and that the harm was redressable through a determination that the Jones Act was unconstitutional. Therefore, Kōloa had standing but, according to Judge Boasberg, that determination was as "evanescent as the breeze in the face of additional grounds for dismissal."

Judge Boesberg was unpersuaded by Kōloa's argument that its action was not time-barred based on the allegation that each shipment was a fresh injury. Judge Boesberg determined that Kōloa's injury commenced when the company was formed in 2009 and, therefore, its action was time-barred by the applicable six-year statute of limitations.

On the merits, Judge Boesberg determined that the Port Preference Clause had been interpreted to prevent direct discrimination and not "neutral legislation with incidental advantages that flow from Congress's lawful exercise of authority." Judge Boesberg concluded that the Jones Act was not a "scheme to disadvantage Hawaii" but rather a law that furthered established United States commercial and national security interests stretching back to 1789.

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