

## Federal Court Dismisses Responsible Party's Admiralty Claim as Preempted by the Oil Pollution Act of 1990

MARCH 22, 2013

On March 20, 2013, U.S. District Court Judge Ivan Lemelle (E.D. La.) granted the motions to dismiss filed by certain oil spill response organizations ("OSROs") and the U.S. Department of Justice ("DOJ") against American Commercial Lines ("ACL"). The decision marks a significant achievement by OSROs and the government defending the remedial scheme of the Oil Pollution Act of 1990 ("OPA").

The litigation arose from the July 2008 oil spill on the Mississippi River resulting from the collision of the M/T TINTOMARA and the M/V MEL OLIVER and its barge, DM-932. In the case, DOJ seeks to recover oil pollution removal costs and damages from the responsible parties, including ACL. In response, ACL filed third-party actions against certain OSROs asserting admiralty claims for contractual immunity alleging that if ACL is liable to the government that it should in turn be indemnified for a portion of the damages by the OSROs because it contends they were overpaid by the Oil Spill Liability Trust Fund ("OSLTF").

The court granted the motions to dismiss explaining that ACL's claims against the OSROs were preempted by OPA. According to the court, (1) OPA manifests "a clear indication to occupy the entire field," (2) "ACL is in effect trying to avoid the strict liability that OPA places on responsible parties to pay the cleanup and removal costs," (3) "allowing ACL's general maritime claims against [the OSROs] to proceed would frustrate the remedial scheme of OPA, which is to encourage rapid cleanup in the wake of an oil spill . . . and would defeat the purpose of incentivizing rapid cleanup. . . ."

Winston & Strawn LLP partner, Larry Kiern, represents movant third-party defendant OSRO, U.S. Environmental Services, LLC.

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