The Robins Dry Dock Rule May Leave Bridge Collapse Claimants High and Dry

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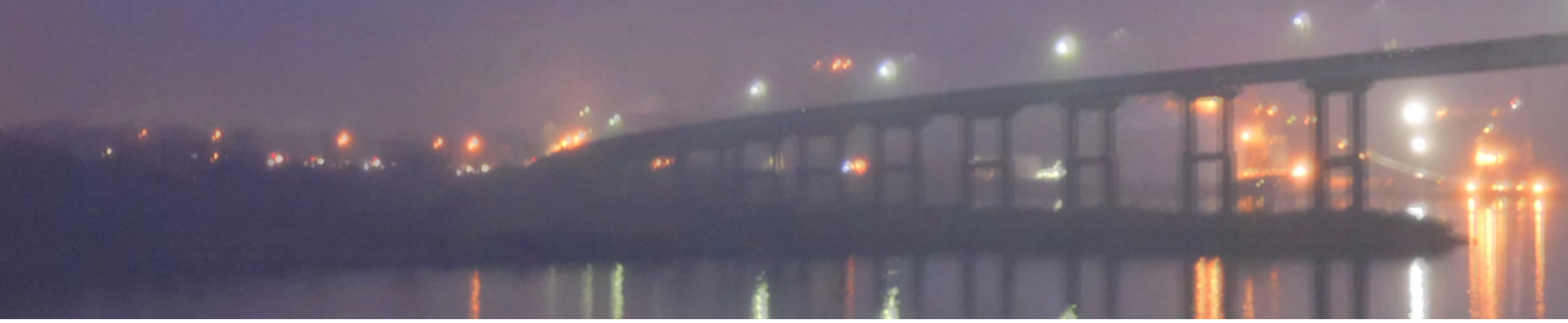

In the early morning of March 26, 2024, the Dali, a Singaporean-flagged cargo ship, crashed into the Francis Scott Key Bridge, causing the entire bridge to collapse into the Patapsco River. Since 1977, the Francis Scott Key Bridge has connected roadways circling Baltimore Harbor. The Francis Scott Key Bridge carried an estimated 11.5 million vehicles annually. Lawsuits are highly anticipated in the wake of this disaster; however, a 1927 Supreme Court case may prevent claimants from recovery.

Generally, under federal and state law, if a claim is solely for economic loss, without any damage to the claimant's property, then no recovery is possible. The ruling in *Robins Dry Dock and Repair Co. v. Flint*, 275 U.S. 303 (1927) has been adopted by the majority of federal courts, including the Fourth Circuit. In this ruling, the Supreme Court held that “where purely economic losses are concerned – wrongful interference with contractual or business interest – more stringent limitations apply than the concept of foreseeability.” *Id.* This is a bright line test that is a broadening of the principle of *Robins Dry Dock & Repair Co. v. Flint*. As a federal common law limit on maritime tort recovery, the rule applies even to damages that pass the foreseeability test. While the rule is not without controversy, it has been applied by most United States circuit courts of appeals to cut off recovery.[1]

Typically, the Economic Loss Rule prevents a party from claiming damages successfully if their damages are purely economic, meaning that there must be some accompanying injury or damage for a party to make their claim. In the instance of the Key Bridge collapse, there is sure to be an influx of claimants who have not suffered personal injury or damage to their property. Companies that utilize the bridge for transportation have undoubtedly had their business ventures interrupted by the collapse. The Francis Scott Key Bridge connected roadways throughout Baltimore Harbor. Without the bridge, businesses and their trucking companies will have to find different means of travel. Some trucks traveling on the Key Bridge transported hazardous materials, such as gasoline and propane, that prohibits those trucks from utilizing tunnels. Furthermore, those using maritime transportation were forced to change their course following the bridge collapse, leading to increases in fueling costs and shipment delays. These vessels were forced to reroute their courses to surrounding New England East Coast ports. Additionally, vessels were stranded in the Port of Baltimore awaiting the reopening of the channel, and businesses inside of the Port relying on shipping traffic came to a complete halt.

The reasoning for the Court's decision in Robins is based on the special need for limitations to recoverable damages in marine casualty cases, which inherently involve nearly limitless potential damages. “A disaster such as an oil spill, the ramming of a bridge, or a collision blocking a channel may have extremely broad economic repercussions, causing delays, inconvenience, and other harm to a wide variety of interests and persons. Reasonable limits on a tortfeasor's responsibility are necessary both to facilitate the judicial administration of compensation for claims and to avoid stretching the third-party system of liability insurance to the breaking point.”[2] The *Robins Dry Dock* rule (RDDR) has been upheld time and time again to establish a general rule, which retains its vitality, against recovery of economic loss caused by a maritime tort to the person or property of another. It’s been noted that the Robins Dry Dock rule has been so consistently applied in admiralty that it should continue to be applied unless and until altered by Congress or the Supreme Court.

While the RDDR has long been upheld, exceptions to the rule do exist. One example came after the Exxon Valdez oil disaster of 1989, when commercial fishermen and others affected by the oil spill brought economic loss claims. *In re* Exxon Valdez, 229 F. 3d 790, 793 (9th Cir. 2000). While they did not personally suffer property damage, the fishermen were still able to recover $52 million in compensatory damages for their losses. *Id.* This led Congress to enact the Oil Pollution Act of 1990 (OPA). Under the OPA, economic loss recovery for fishermen and other natural resource-dependent professionals is explicitly allowed. Given the statute that

arose out of the Exxon Valdez Litigation, it is possible that maritime law could be altered to allow those affected by the Francis Scott Key Bridge collapse to recover despite the Robins Dry Dock Rule, catalyzing the debate around foreseeability and the economic loss doctrine.

With the influx of claimants expected to flock to the courts following the collapse of the Key Bridge, the courts will have to apply the Limitation of Liability Act. Overcoming the Economic Loss Rule in maritime cases does not give plaintiffs "free reign" when claiming damages. The courts must look to the actual negligence or "conditions of unseaworthiness" that caused the accident. Those who can recover despite the Economic Loss Rule are limited in their damages. Damages under the Act are limited to the amount of value of the claimant's interest. In terms of vessels, damages are typically limited to the value of the vessel itself and any pending freight on board that may have been damaged. Claimants will face the burden of proving negligence. In contrast, the vessels' owners must prove they lacked knowledge of the acts of negligence or the conditions that deemed the vessel's conduct unseaworthy.

On April 22, the mayor and city council of Baltimore filed suit against the owner of the Dali in Maryland federal court, stating that the collapse of the Key Bridge forced Baltimore's "economic engine" to a halt. The City seeks to recover economic damages from the Singaporean manager, the Synergy Marine Group. In the weeks since the collapse, it has been alleged that records from the ship have shown that the vessel was suffering from inconsistent power supply before the ship departed. In their suit, the City claims that ignoring the inconsistencies in the ship's power supply was criminally negligent. Additionally, the Synergy Marine Group has filed a petition in Maryland to limit its liability. If the Maryland court is persuaded in Synergy's direction, recovery from claimants could be limited to $43,671,000, with interest at the rate of 6% per annum, which represents the value of Owner's interest in the Vessel and its pending freight in connection with the voyage. On April 26, a class action led by American Publishing, LLC was filed against Synergy. The class also objects to Synergy's petition for a damage cap, stating that the vessel's conduct was "clearly unseaworthy."

In the month since the Francis Scott Key Bridge collapsed, efforts to clear the debris were ongoing. President Biden announced that the federal government would shoulder the cost of repairs to the Francis Scott Key Bridge. These repairs are estimated to cost more than $400 million and may take up to seven years to complete. The litigation sure to be surrounding the collapse of this Baltimore staple will be on-going for years to come.

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1 § 14:8. Economic losses and remote claims, 2 Admiralty & Mar. Law § 14:8 (6th ed.)
2 2 Admiralty & Maritime Law, § 14-7 (5th ed.)