

UNITED STATES COURT OF APPEALS December 9, 2003

FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 03-30321

(Summary Calendar)

In Re: In the Matter of the Complaint of CLEARSKY SHIPPING CORP as owner and COSCO SHIPPING COMPANY LIMITED, as manager of the M/V Bright Field, for Exoneration from or Limitation of Liability

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Claimants - Appellants

versus

NEW ORLEANS RIVERWALK ASSOCIATES; BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS; ZURICH INSURANCE COMPANY, as the insurer of Hilton Hotels Corporation; ZURICH INSURANCE COMPANY, as the subrogated insurer of the Museum Company Inc; ZURICH INSURANCE COMPANY, as the subrogated insurer of Nine West Group Inc; MASSACHUSETTS BAY INSURANCE COMPANY, as the insurer of Turquoise Gallery Inc, doing business as St. Charles Gallery Inc; HANOVER AMERICAN INSURANCE CO, as the subrogated insurer of Perlis Inc; Perlis Incorporated, doing business as Cajun Clothing Co, Perlis Men's Store & Perlis Corporation; HANOVER AMERICAN INSURANCE CO; INTERNATIONAL RIVERCENTER; HILTON HOTELS CORPORATION; NEW ORLEANS PADDLEWHEELS INC; SUMITOMO CORPORATION; ITOCHU CORPORATION; CARGILL JAPAN LTD

Claimants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER; HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

Plaintiff - Appellee

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

COSCO (HONG KONG) SHIPPING COMPANY LTD; ET AL

Defendants

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

QUEEN OF NEW ORLEANS AT THE HILTON JOIN VENTURE

Plaintiff - Appellee

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

COSCO (HONG KONG) SHIPPING COMPANY LTD; ET AL

Defendants

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A

Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

NEW ORLEANS PADDLEWHEELS INC

Plaintiff - Appellee

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER; HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

COSCO (HONG KONG) SHIPPING COMPANY LTD; ET AL

Defendants

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

COLOR INC, Etc

Plaintiff

versus

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS; ET AL

Defendants

INTERNATIONAL RIVERCENTER; HILTON HOTEL CORPORATION

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

YVONNE RICHARDS

Plaintiff

versus

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS; ET AL

Defendants

INTERNATIONAL RIVERCENTER

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

DONALD DOUGLAS

Plaintiff

versus

INTERNATIONAL RIVERCENTER INC; ET AL

Defendants

INTERNATIONAL RIVERCENTER INC

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

CHARLES L PORTER; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

INTERATIONAL RIVERCENTER; HILTON HOTELS CORPORATION

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

QIN WENG, Etc; ET AL

Plaintiffs

versus

THE INTERNATIONAL RIVER CENTER; ET AL

Defendants

THE INTERNATIONAL RIVER CENTER; BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER; HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

WARREN AVIST; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

INTERNATIONAL RIVERCENTER; HILTON HOTELS CORPORATION

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

TIE RACK INC, Etc; ET AL

Plaintiffs

versus

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS; ET AL

Defendants

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS; THE INTERNATIONAL RIVERCENTER

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

VIVIAN OUBRE

Plaintiff

versus

THE NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS; THE INTERNATIONAL RIVERCENTER; THE HILTON HOTELS CORPORATION

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER; HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

CORINA RATCLIFF

Plaintiff

versus

INTERNATIONAL RIVERCENTER INC; ET AL

Defendants

INTERNATIONAL RIVERCENTER; BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

STEAK ESCAPE OF NEW ORLEANS INC; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

INTERNATIONAL RIVERCENTER; BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS; HILTON HOTELS CORPORATION

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; STATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

THE LIMITED INC, Etc; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

HILTON HOTELS CORPORATION

Defendant - Appellee

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

VIC TUSA; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS; THE INTERNATIONAL

RIVERCENTER; HILTON HOTELS CORPORATION

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

DISCOVERY COMMUNICATIONS INC, Etc; ET AL

Plaintiffs

versus

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS; ET AL

Defendants

THE INTERNATIONAL RIVERCENTER

Defendant - Appellee

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

HEIDI L BAYER; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

NEW ORLEANS RIVERWALK ASSOCIATES; BOARD OF COMMISSIONERS OF THE PORT
OF NEW ORLEANS

Defendants

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk
Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty
T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A
Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and
Robert D Rogers, Sr; ET AL

Appellants

TIME WARNER ENTERTAINMENT COMPANY LP; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

NEW ORLEANS RIVERWALK ASSOCIATES; BOARD OF COMMISSIONERS OF THE PORT
OF NEW ORLEANS

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

NEW ORLEANS PADDLEWHEELS INC

Plaintiff - Appellee

versus

DIXIE WELDING AND MACHINE WORKS INC; ET AL

Defendants

versus

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

TRIPLE D DELTA LLC; ET AL

Plaintiffs

versus

THE NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

THE NEW ORLEANS RIVERWALK ASSOCIATES; BOARD OF COMMISSIONERS OF THE
PORT OF NEW ORLEANS

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

MIKE ANDERSON'S SEAFOOD OF RIVERWALK INC

Plaintiff

versus

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

NEW ORLEANS RIVERWALK ASSOCIATES; BOARD OF COMMISSIONERS OF THE PORT
OF NEW ORLEANS

Defendants

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

STATE FARM FIRE AND CASUALTY COMPANY, Etc; ET AL

Plaintiff

versus

ONE RIVER PLACE CONDOMINIUM ASSOCIATION INC; ET AL

Defendants

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS; NEW ORLEANS
RIVERWALK ASSOCIATES

Defendants - Appellees

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk
Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty
T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A
Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and
Robert D Rogers, Sr; ET AL

Appellants

ANGELINE AUGUSTINE; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

NEW ORLEANS RIVERWALK ASSOCIATES; BOARD OF COMMISSIONERS OF THE PORT
OF NEW ORLEANS

Defendants - Appellees

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk
Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty
T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A

Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert
D Rogers, Sr; ET AL

Appellants

SPERGEON HOLLY, III; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Defendants

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

Defendant - Appellee

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk
Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty
T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A
Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and
Robert D Rogers, Sr; ET AL

Appellants

NEW ORLEANS RIVERWALK ASSOCIATES; ET AL

Plaintiffs

NEW ORLEANS RIVERWALK ASSOCIATES

Plaintiff - Appellee

versus

DIXIE WELDING AND MACHINE WORKS INC; ET AL

Defendants

versus

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

INTERNATIONAL RIVERCENTER; ET AL

Plaintiffs

INTERNATIONAL RIVERCENTER; HILTON HOTELS CORPORATION

Plaintiffs - Appellees

versus

DIXIE WELDING AND MACHINE WORKS INC; ET AL

Defendants

versus

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER; HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

CONTINENTAL CASUALTY COMPANY, Etc

Plaintiff

versus

ONE RIVER PLACE CONDOMINIUM ASSOCIATION INC; ET AL

Defendants
BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

Defendant - Appellee
versus

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees
versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

CHANTELLA SHEDRICK; ET AL
Plaintiffs

versus

THE ROUSE COMPANY OF COMPOANY OF LOUISIANA INC; ET AL

Defendants
BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

Defendant - Appellee
and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees
versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL

AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

LESLIE DOMINICK, SR; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK ASSOCIATION LIMITED PARTNERSHIP

Defendant - Appellee

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

KIMBERLY HIBBARD; ET AL

Plaintiffs

versus

NEW ORLEANS RIVERWALK LIMITED PARTNERSHIP; ET AL

Defendants

NEW ORLEANS RIVERWALK ASSOCIATES

Defendant - Appellee

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

JOSEPH JONES, SR

Plaintiff

versus

NEW ORLEANS PADDLEWHEELS INC

Defendant - Appellee

and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees

versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

ROSEMARY LEWIS; ET AL

Plaintiffs

versus

FLAMINGO CASINO NEW ORLEANS, Etc; ET AL

Defendants

NEW ORLEANS PADDLEWHEELS INC
Defendant - Appellee
and

LAMBERT & NELSON PLC; INDUSTRIAL RISK MANAGERS; LEGER & MESTAYER;
HERMAN HERMAN KATZ & COTLAR; BRUNO & BRUNO

Appellees
versus

FIREMANS FUND INSURANCE COMPANY, as automobile insurer of Richard Foreman, D Kirk Stirton and J Scott Chotin; ALLSTATE INSURANCE COMPANY, As Automobile insurer of Betty T Brooks; STATE FARM FIRE & CASUALTY COMPANY, As automobile insurer of August A Robin; ALLSTATE INDEMNITY INSURANCE COMPANY; STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, as automobile insurer of Jerome L Goldman and Robert D Rogers, Sr; ET AL

Appellants

Appeal from the United States District Court
For the Eastern District of Louisiana
USDC No. 97-CV-1343

Before BARKSDALE, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

This case arises out of the allision of the M/V BRIGHT FIELD with the New Orleans Riverwalk in December 1996. Over 1500 personal injury and property damage claims were filed against the vessel interests. The vessel interests, in turn, filed a limitation of liability action seeking exoneration from or limitation of liability in the district court. The district court consolidated the various actions arising from the allision, stayed them pending resolution of the limitation of liability

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

action and appointed lead counsel. The district court subsequently appointed the appellants (“Attorneys”) as co-lead counsel to protect the interests of the property claimants. The district judge then established a compensation plan to reimburse attorneys who performed for the common benefit. The plan required each settling party to contribute 4% of its individual settlement into an interest-bearing account (“the fund”) for the common benefit, to be paid from the individual party’s attorney’s fee.

After settling the claims of the property claimants, leaving only the personal injury claims outstanding, the Attorneys moved the district court to be excused from this requirement. The district judge denied the motion, concluding that although the Attorneys’ work benefitted the common good, it would be more equitable to require payment by all claimants, and settle the fund at the conclusion of litigation, rather than in a piecemeal fashion. The district court awarded common benefit costs but deferred consideration of common benefit attorneys fees claims until the conclusion of litigation. The district court also denied the Attorneys’ motion for exoneration and return of their contributions to the fund. The Attorneys appeal the denial of this motion, claiming that the fund is inequitable.

This Court has jurisdiction to hear appeals of interlocutory orders in the limited circumstances found in 28 U.S.C. § 1292. *O’Donnell v. Latham*, 525 F.2d 650, 652 (5th Cir. 1976). The Attorneys assert that jurisdiction is proper under 28 U.S.C. § 1292(a)(3), which allows appeals of “[i]nterlocutory decrees of such district court or the judges thereof determining the rights and liabilities of the parties to admiralty cases in which appeals from final decrees are allowed.” 28 U.S.C. § 1292(a)(3). Courts construe this provision narrowly. *Treasure Salvors v. Unidentified Wrecked and Abandoned Sailing Vessel*, 640 F.2d 560, 564 (5th Cir. 1981). Even if an order has important procedural consequences, it is not appealable if it does not determine the rights or liabilities of the

parties. *In Re Ingram Towing Co.* 59 F.3d 513, 517 (5th Cir. 1995).

The denial of the motion for exoneration and return of the Attorneys' contributions to the fund does not determine their rights or liabilities. It does not determine whether the Attorneys have a substantive right to the money. The district court will determine the Attorneys' claim to the funds at the conclusion of the litigation. If the Attorneys are not justly compensated they can appeal the distribution at that time. Accordingly, because the rights or liabilities of the parties were not determined by the denial of this motion, this Court does not have jurisdiction to hear this interlocutory appeal. It is hereby DISMISSED for lack of jurisdiction.