



*Jurich v. Compass Marine, Inc.*

United States Court of Appeals for the Eleventh Circuit

August 22, 2014, Decided

No. 13-15520, No. 13-15526

**Reporter**

764 F.3d 1302; 2014 U.S. App. LEXIS 16211; 23 Wage & Hour Cas. 2d (BNA) 340; 25 Fla. L. Weekly Fed. C 328

NICKOLAS JURICH, JESSE GANN, and others similarly situated, CHARLES WOOD, Plaintiffs-Appellants, versus COMPASS MARINE, INC., Defendant-Appellee. WILBUR SMITH, and others similarly situated, Plaintiff-Appellant, versus SEAPORT MARINE, INC., ODYSSEA MARINE, INC., Defendants-Appellees.

**Prior History:** **[\*\*1]** Appeals from the United States District Court for the Southern District of Alabama. D.C. Docket No. 1:12-cv-00176-WS-B. D.C. Docket No. 1:12-cv-00501-WS-B.

[\*Jurich v. Compass Marine, Inc.\*, 2013 U.S. Dist. LEXIS 159557 \(S.D. Ala., Nov. 7, 2013\)](#)  
[\*Smith v. Seaport Marine, Inc.\*, 981 F. Supp. 2d 1188, 2013 U.S. Dist. LEXIS 157358 \(S.D. Ala., 2013\)](#)

**Disposition:** AFFIRMED.

**Core Terms**

Paycheck, wages, agencies, maritime law, claims for wages, summary judgment, irrevocable, plaintiffs', summary judgment order, employment agency, district court, assigning, collected, maritime, orders, repaid

**Counsel:** For NICKOLAS JURICH, and others similarly situated, Charles Wood, Jesse Gann, Plaintiffs - Appellants: Dennis M. O'Bryan, Kirk E. Karamanian, O'Bryan Baun Karamanian, Birmingham, MI.

For Compass Marine, Inc., Defendant - Appellee: David Graham Kennedy, Law Office of David Graham Kennedy, Mobile, AL.

For Service: Kyle Andrew Khoury, Johnson Johnson Barrios & Yacoubian, A Professional Law Corporation, New Orleans, LA; Salvador Joseph Pusateri, Johnson Johnson Barrios & Yacoubian, New Orleans, LA.

**Judges:** Before ED CARNES, Chief Judge, JORDAN and ROSENBAUM, Circuit Judges.

**Opinion**

**[\*1303]** PER CURIAM:

This consolidated appeal arises out of a claim for wages brought under the general maritime law by four seamen — Nickolas Jurich, Jesse Gann, Charles Wood, and Wilbur Smith. The seamen asserted their claims against two maritime employment agencies — Compass Marine, Inc., and Seaport Marine, Inc. — that they retained to help them find jobs. Smith also asserted the same claim against Odyssey Marine, Inc., a maritime transport company that hired him based on a **[\*\*2]** referral from Seaport Marine.

When the seamen retained the employment agencies' services, they signed a series of agreements assigning to the agencies the right to collect a portion of their first six to ten paychecks if they accepted a job as a result of the employment agency's efforts. One of the documents they signed, a "Paycheck Mailing Agreement," provided that

each seaman would have his employer send his paychecks directly to the employment agency while his debt was still outstanding. Under the agreement, the agency would take its agreed upon share of the wages and forward the balance of the paycheck to the seaman. Once the debt had been fully repaid, the employer would begin sending the seaman his paychecks directly. The agreement also stated that it was "irrevocable" until the seaman's debt had been repaid.

Compass and Seaport Marine eventually found jobs for the four seamen, and those two agencies collected a portion of their wages, following the procedure agreed upon in the Paycheck Mailing Agreements. It is undisputed that the agencies fully performed under the contracts and that they obtained their fees through the assignment of the seamen's wages made under the Paycheck [\*\*3] Mailing Agreements.

The four seamen eventually brought suit, asserting a claim for wages under the general maritime law. In their complaints, they alleged that the wage assignments they had signed were invalid under [46 U.S.C. § 11109\(b\)](#), which states that a seaman's "assignment . . . of wages . . . made before the payment of wages does not bind the party making it." [46 U.S.C. § 11109\(b\)](#); see also [Wilder v. Inter-Island Steam Navigation Co.](#), [211 U.S. 239, 247, 29 S.Ct. 58, 61, 53 L. Ed. 164 \(1908\)](#) (interpreting the predecessor statute to [46 U.S.C. § 11109](#)). Based on that statutory provision and the special protection that courts typically afford seamen under the "wards of admiralty" doctrine, they claimed that they were entitled to a full refund of the wages that had been collected under the Paycheck Mailing Agreements by Compass and Seaport Marine. After discovery, the district court granted the defendants summary judgment on the [\*1304] plaintiffs' claims, and the seamen now appeal those decisions.

We review *de novo* a district court's grant of summary judgment, viewing all facts and

reasonable inferences in the light most favorable to the nonmoving party. [Allison v. McGhan Med. Corp.](#), [184 F.3d 1300, 1306 \(11th Cir. 1999\)](#). Summary judgment is appropriate where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Id.*

After reviewing the record, reading [\*\*4] the parties' briefs, and hearing oral argument, we affirm the judgment of the district court for the reasons set out in its two well-reasoned and well-written orders, which were filed on November 4, 2013, and November 7, 2013. See [Smith v. Seaport Marine, Inc.](#), [981 F. Supp. 2d 1188 \(S.D. Ala. 2013\)](#); [Jurich v. Compass Marine, Inc., No. 1:12-cv-00176-WS-B, 2013 U.S. Dist. LEXIS 159557, 2013 WL 5960899 \(S.D. Ala. Nov. 7, 2013\)](#). We adopt those orders as our opinion with the same effect as if we had written them ourselves. In doing so, we emphasize that Compass' and Seaport's inclusion of the word "irrevocable" in the Paycheck Mailing Agreements was improper and contrary to the plaintiffs' clear statutory right under [§ 11109\(b\)](#), which provides that the seamen were not bound by those agreements.

As a final point, we note that the district court's summary judgment orders addressed only the plaintiffs' claims for wages that were brought under the general maritime law and predicated on a violation of [§ 11109\(b\)](#). The dismissal of any other claims before those two summary judgment orders was not appealed to this Court, and we express no opinion on the validity of those claims or of any claim other than one for wages brought under the general maritime law and based on a violation of [§ 11109\(b\)](#). That means that if Compass and Seaport continue using the word "irrevocable" [\*\*5] in their Paycheck Mailing Agreements, they may do so at their eventual peril.

**AFFIRMED.**