

Legal Update

— Transport Group

22 October 2009

Rule B Security for Maritime Claims: Australia

The huge sigh of relief that was heard from Maritime lawyers, outside New York, on 16 October 2009, greeted the judgment of the United States Court of Appeal for the Second Circuit in the case of *Shipping Corporation of India Limited v Jaldhi Overseas Pty Limited*.

That decision has brought to an end what is known as **Rule B (of the Admiralty Code) Attachment** whereby security for a maritime claim could be obtained by attaching US Dollar electronic funds transfers passing through the New York banking system.

One commentator has suggested that in the four months from 1 October 2008 to 31 January 2009 there were some 962 lawsuits seeking to attach US\$1.35 billion. Such a staggering number of admiralty claims brings tears to the eyes of this crusty maritime lawyer.

Hopefully the beneficiaries of this decision will be admiralty lawyers in Australia where the 1988 Admiralty Act (modelled on the 1952 Arrest Convention), but permitting arrest to secure maritime arbitrations, sister ship arrest, and the well developed law of Mareva Injunctions provides an excellent forum in which claimants can seek to protect their interests.

Stuart Hetherington is a Partner of Colin Biggers & Paisley, the author of *Annotated Admiralty Jurisdiction*, the co-author with Professor James Crawford of the *Admiralty Section of Laws of Australia* (Law Book Co) and Vice-President of the *Comite Maritime International*.

Stuart Hetherington Partner

T: 02 8281 4477

E: swh@cbp.com.au