

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**IN RE THE COMPLAINT AND
PETITION OF MAGNOLIA MARINE
TRANSPORT COMPANY, AS OWNER
OF THE ROBERT Y. LOVE, ITS
ENGINES, TACKLE, ETC., IN A
CAUSE OF EXONERATION FROM
OR LIMITATION OF LIABILITY**

Civil Action No.: 5:02cv155BrS

**ORDER APPROVING LETTER OF UNDERTAKING,
DIRECTING THE ISSUANCE OF THE MONITION RESTRAINING
PROSECUTION OF CLAIMS, AND DIRECTING CLAIMANTS TO FILE
CLAIMS AND/OR ANSWERS**

The *ex parte*, *ore tenus* motion of Petitioner Magnolia Marine Transport Company, by and through its counsel, Henderson Dantone, P.A., having come before the Court, and the Court being fully advised in the premises, including that a Petition and Complaint was filed on the 3rd day of June, 2002, by Magnolia Marine Transport Company (the "Petitioner"), as owner of the ROBERT Y. LOVE, claiming the benefit of Exoneration from or Limitation of Liability as provided for in the Act of Congress entitled "An Act to Limit the Liability of Shipowners and for Other Purposes" passed March 3, 1851, now embodied in Sections 4282 to 4289, inclusive, of the Revised Statutes of the United States (46 U.S.C. § 182 to 189, inclusive), and statutes supplementary thereto, and amendatory thereof and Rule F of the Supplemental Rules of Certain Admiralty and Maritime Claims of the United States Supreme Court; contesting Petitioner's liability by claiming exoneration from all liability

independently of the limitation of liability claim under said Act for any loss, damage, or destruction arising during the voyage described in said Petition and Complaint which commenced on or about May 22, 2002, and terminated on or about May 26, 2002; and stating the facts and circumstances upon which such exoneration from and Limitation of Liability are claimed; and

The Court, having considered the Petition and Complaint, the Affidavit of Value, the Affidavit of Value of Pending Freight, and the Letter of Undertaking from Petitioner's primary and excess underwriters in the amount of ONE MILLION TWO HUNDRED TWENTY-THREE THOUSAND TWO HUNDRED AND 00/100 DOLLARS (\$1,223,200.00), plus interest at the rate of 6% per annum from June 3, 2003, each of which have been filed of record, FINDS the motion to be well taken, SUSTAINS same and ORDERS as follows:

1. That said Letter of Undertaking be and the same is hereby approved;
2. That pending the Court-ordered appraisalment of the amount of the value of Petitioner's interest in the ROBERT Y. LOVE and its pending freight, the Letter of Undertaking filed herein shall stand as security for all claims in this proceeding;
3. That the execution and filing of said Letter of Undertaking shall be
without prejudice to the due appraisal by the Court of Petitioner's interest in

the ROBERT Y. LOVE and its pending freight;

4. That, on the filing of the Report of the Commissioner to appraise the value of the ROBERT Y. LOVE and its pending freight, and upon determination by the Court of any exceptions thereto, any party may seek leave to apply to the Court to have the amount of said Letter of Undertaking increased or diminished as the Court may direct;

4. That upon the report of the Commissioner the Court may, in its sound discretion, order that Petitioner, within thirty (30) days after the entry of an Order confirming the Report of the Commissioner to appraise the value of the Petitioner's interest in the ROBERT Y. LOVE and its pending freight, either shall pay into the Court the amount of the value of such interest, as thus ascertained, or, in the alternative, shall file in this proceeding a Bond or Stipulation of Value in the usual form with sufficient sureties or, in the alternative, that the Letter of Undertaking, which this day has been approved, shall, subject to being increased or diminished, continue to stand as security for the Petitioner's interest in the ROBERT Y. LOVE and its pending freight;

5. That this Order serve as a Restraining Order issued out of and under the seal of this Court against all persons or entities claiming civil damages from any and all losses, damages, deaths, personal injuries, cargo damage, or destruction of property occasioned as alleged in said Petition and Complaint during the voyage of the ROBERT Y. LOVE, which commenced on

or about May 22, 2002, and terminated on or about May 26, 2002;

7. That all persons having claims arising out of the incident described in the Petition shall file them with the Clerk of this Court and shall serve or mail a copy of same to Henderson Dantone, P.A., attorneys for Petitioner, on or before the close of business on the 15th day of November, 2002, at their offices at 241 Main Street, Greenville, Mississippi 38701 or by mail at Post Office Box 778, Greenville, Mississippi 38702-0778;

8. That any person or entity claiming damages as aforesaid who desires to contest the claims of Petitioner must file a Answer to said Petition and Complaint, as required by Rules F (4) and (5) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the United States Supreme Court and serve and mail the Petitioner's attorneys a copy thereof;

9. That the beginning or continued prosecution of any all suits, actions, or legal proceedings of a civil nature, except in the present proceeding, in respect any claim arising out of consequent upon or in connection with the aforesaid voyage of the ROBERT Y. LOVE, which commenced on or about May 22, 2002, be and they are hereby stayed, and restrained until the hearing and termination of this proceeding;

10. That service of this Order as a restraining order may be made within this District in the usual manner and in any other District by the United States Marshal for such District or by serving, pursuant to Rule 4,

Federal Rules of Civil Procedure, a true and correct copy of both this Order and the Petition upon the person or entity to be restrained or upon that person's or entity's respective attorneys or personal representative.

SO ORDERED at Natchez, Mississippi this 4th day of June, 2002.

s/David Bramlette
DAVID BRAMLETTE
JUDGE,
UNITED STATES DISTRICT COURT

Order prepared by:

s/Joel J. Henderson

Joel J. Henderson Esq., MSB No. 2264
Frank J. Dantone, Jr., Esq., MSB No. 5792
Edward D. Lamar, Esq., MSB No. 1780
HENDERSON DANTONE, P.A.
241 Main Street
P.O. Box 778
Greenville, MS 38702-0778
(662) 378-3400
(662) 378-3413 facsimile

G. Ray Bratton
Gregory W. O'Neal
BRATTON & O'NEAL, P.C.
5100 Wheelis, Suite 106
Memphis, TN 38117
(901) 684-6100
(901) 684-6106 facsimile

J. Kevin Watson, Esq., MSB No. 6991
F. Keith Ball, Esq., MSB No. 8645
David S. Humphreys, Esq. MSB No. 100085

WATSON & JERNIGAN, P.A.
P.O. Box 23546
Jackson, MS 39225-3546
(601) 939-8900
(601) 932-4400 facsimile