

# BROWN SIMS

## ATTORNEYS AT LAW

*In Thibodeaux v. Vamos Oil & Gas Co., 487 F.3d 288 (5th Cir. 2007), the United States Court of Appeals for the Fifth Circuit held that the Louisiana Oilfield Indemnity Act did not invalidate the provisions of a Master Service Agreement between a contract labor provider and a drilling company. A worker supplied by the contract labor provider was injured while working on the driller's inland drilling barge. The driller settled the injured worker's suit and brought an action for indemnity under the Master Service Agreement. The contract labor provider argued that the indemnity provisions of the MSA were invalid and unenforceable pursuant to the terms of the Louisiana Oilfield Indemnity Act.*

*The Court noted that there is no bright line rule used to determine whether a contract is maritime in nature and that the determination depends partly on its historical treatment in the jurisprudence and partly on a six-pronged fact specific inquiry: (1) what does the specific work order in effect at the time of the injury provide? (2) What work did the crew assigned under the order actually do? (3) Was the crew assigned to do work aboard a vessel in navigable waters? (4) To what extent did the work being done relate to the mission of the vessel? (5) What was the principal work of the injured worker? and (6) What work was the injured worker actually doing at the time of injury?*

*The Court held that personnel contracts for inland drilling barges are historically treated as maritime contracts. The Court further held that it need not apply the six-pronged test because the contract labor provider came forward with no evidence under the six factors that would militate against application of maritime law. Consequently, the Court applied maritime law and not Louisiana law. Therefore, the Court held the indemnity provisions to be valid and enforceable.*

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