UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROBERT N. JONES, *Plaintiff,*	§	
vs.	§	Case No. 4:24-cv-3885
W&T OFFSHORE INC., REC MARINE LOGISTICS, LLC, and GULF OFFSHORE LOGISTICS, LLC, *Defendants.*	§	

JUDGE PALERMO'S ORDER AND REPORT AND RECOMMENDATION ON PLAINTIFF'S MOTION TO REMAND AND DEFENDANTS' MOTION TO DISMISS[1]

This is a maritime dispute involving personal injuries sustained on a ship deck. Pending before the Court are Defendants REC Marine Logistics, LLC ("Defendant" or "REC"), and Gulf Offshore Logistics, LLC's ("Defendant" or "GOL") motion to dismiss for lack of personal jurisdiction and/or improper venue, ECF No. 6,[2] as well as Plaintiff Jones's ("Plaintiff") motion to remand, ECF No. 7.[3] On January 31, 2025, the Court held oral argument on the pending motions. Based on a careful review of

[1] On October 15, 2024, the District Judge to whom this case is assigned referred all pretrial matters to this Court. Order, ECF No. 4. The motion to remand is a dispositive motion appropriate for a report and recommendation in accordance with 28 U.S.C. § 636(b).

[2] Plaintiff filed a response, ECF No. 9. Defendants REC and GOL filed a reply, ECF No. 10.

[3] Defendant W&T Offshore Inc. ("Defendant" or "W&T") filed a response, ECF No. 13.

the pleadings, motions, argument of counsel, and applicable law, the Court determines that the motion to remand should be granted in part and denied in part. Specifically, the Jones Act claims against REC and GOL should be severed and remanded back to state court.[4] The remaining general negligence claim against W&T Offshore should remain in this court.

I. BACKGROUND

Around June 5, 2024, Plaintiff was employed by REC and GOL as a deckhand on the vessel M/V GOL Warrior. ECF No. 1-2 ¶ 14. During his employment, Plaintiff became seasick, and REC & GOL directed that he be transported to a platform on the Gulf of Mexico Outer Continental Shelf ("OCS") by a crane with a personnel basket. *Id.* ¶ 15. Due to the M/V GOL Warrior crew's untimely signaling to the crane operator, an employee of W&T Offshore, the operator lifted Plaintiff before he was ready, and he fell out of the basket onto the deck of the vessel, injuring himself. *Id.* ¶¶ 16-18. As part of his employment, Plaintiff had been supporting work being performed on the platform, including operations involving the development and production of minerals of the subsoil and seabed of the OCS. ECF No. 1 ¶ 8.

[4] Because the claims against REC and GOL should be remanded, their motion to dismiss for lack of personal jurisdiction/improper venue, ECF No. 6, is denied as moot. *See MV Transp., Inc. v. Chakbazof*, 2018 WL 4825039, at *2 (N.D. Tex. Oct. 4, 2018) ("[W]hen both a motion to remand based on lack of subject matter jurisdiction and a motion to dismiss for lack of personal jurisdiction have been filed, a court has discretion as to which to address first." (citing *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 587-88 (1999))).

Plaintiff filed suit in Texas state court, alleging Jones Act negligence, unseaworthiness, and maintenance and cure against REC and GOL, and general negligence against W&T Offshore. ECF No. 1-2 at 2, 5-8. Plaintiff asserted that because he was suing under maritime law, including the Jones Act, his action was not removable to federal court. *Id.* ¶¶ 1, 10. W&T Offshore timely removed the case to federal court, asserting that the Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and the Outer Continental Shelf Lands Act ("OCSLA"). ECF No. 1 at 2. REC and GOL also filed a motion to dismiss for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2) and improper venue under Federal Rule of Civil Procedure 12(b)(3) or to transfer pursuant to 28 U.S.C. § 1406(a). ECF No. 6. Plaintiff filed a motion to remand, arguing that because Plaintiff is a Jones Act seaman, OCSLA does not provide federal jurisdiction that independently justifies removal. ECF No. 7 at 4.

II. LEGAL STANDARDS

a. Removal and Remand of Maritime Cases.

"Federal courts are courts of limited jurisdiction." *Gunn v. Minton*, 568 U.S. 251, 256 (2013) (quoting *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994)). They possess "only that power authorized by Constitution and statute." *Gunn*, 568 U.S. at 256 (quoting *Kokkonen*, 511 U.S. at 377). As a general matter, defendants may remove to federal court those state court civil actions over which

the federal courts would have original jurisdiction. *See* 28 U.S.C. § 1441(a); *Barker v. Hercules Offshore, Inc*., 713 F.3d 208, 228 (5th Cir. 2013). Two principal categories of cases over which district courts have original jurisdiction, and thus removal jurisdiction, are diversity and federal question cases. *See* 28 U.S.C. §§ 1331, 1332.

There is a third category of cases where "[t]he district courts shall have original jurisdiction, exclusive of courts of the States," namely "[a]ny civil case of admiralty or maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled." 28 U.S.C. § 1333. Despite the preceding "exclusive" language, the "saving to suitors" clause allows plaintiffs to "elect to bring such claims in state rather than federal court." *Ibarra v. Port of Hous. Auth. of Harris Cnty.*, 526 F. Supp. 3d 202, 211 (S.D. Tex. 2021) (emphasis added) (internal quotation marks omitted) (quoting *In re Eckstein Marine Serv., L.L.C.*, 672 F.3d 310, 315 (5th Cir. 2012)). Further, "because general maritime-law claims do not 'arise under' the laws of the United States, *see Am. Ins. Co. v. 356 Bales of Cotton*, 26 U.S. 511, 512 (1828), the longstanding rule in this and other circuits has been that admiralty and general maritime claims filed in state court are removable only in the presence of diversity of citizenship or a federal question other than the maritime nature of the claims." *Ibarra*, 526 F. Supp. 3d at 211 (citing *Barker*, 713 F.3d at 219-20 (internal citation omitted)); *Clear Lake Marine Ctr., Inc. v. Leidolf*, Civ. Action

No. H–14–3567, 2015 WL 1876338, at *1 (S.D. Tex. Apr. 22, 2015) (citing *Barker*, 713 F.3d at 219-20 (internal citation omitted)).

However, "[b]eginning with *Ryan v. Hercules Offshore, Inc.*, 945 F. Supp. 2d 772 (S.D. Tex. 2013), some courts in this circuit have interpreted Congress's 2011 clarification of [28 U.S.C. § 1441] as having changed this longstanding rule." *Clear Lake*, 2015 WL 1876338, at *1 (first citing *Wells v. Abe's Boat Rentals Inc.*, No. H–13–1112, 2013 WL 3110322 (S.D. Tex. June 18, 2013); then citing *Carrigan v. M/V AMC AMBASSADOR*, No. H–13–03208, 2014 WL 358353 (S.D. Tex. Jan. 31, 2014); and then citing *Exxon Mobil Corp. v. Starr Indem. & Liab. Co.*, No. H–14–1147, 2014 WL 2739309, at *2 (S.D. Tex. June 17, 2014)). The 2011 "clarification" or amendment eliminated the first sentence of the former § 1441(b) which stated: "Any civil action of which the district courts have original jurisdiction founded on a claim or right under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties." 28 U.S.C. § 1441(b) (West 2006). "[T]he *Ryan* opinion concluded that the amendment…eliminated the requirement of a separate jurisdictional trigger for maritime cases." *Ibarra*, 526 F. Supp. 3d at 214 (citing *Figueroa v. Marine Inspection Servs.*, 28 F. Supp. 3d 677, 680 (S.D. Tex. 2014)). "In other words, the *Ryan* court concluded that, after the amendment, admiralty claims were removable,

even in the absence of diversity of citizenship or some other federal question…." *Id.* (citing 945 F. Supp. 2d at 774-78).

But a "'growing chorus' of district courts, including several in [the Southern District of Texas] have rejected the reasoning in *Ryan* and have reaffirmed that general maritime claims are not removable absent some other independent basis for federal jurisdiction." *Clear Lake*, 2015 WL 1876338, at *2 (collecting cases); *Granite State Ins. Co. v. Chaucer Syndicate 1084 at Lloyd's*, Civ. Action No. H-20-1588, 2020 WL 8678020, at *4 (S.D. Tex. July 14, 2020) (quoting *Sangha v. Navig8 ShipManagement Priv. Ltd.*, 882 F.3d 96, 100 (5th Cir. 2018)) ("[T]he 'vast majority of district courts considering this question have maintained that such lawsuits are not removable.'"). "The majority of courts within the Southern District of Texas, including this court, no longer follow *Ryan*." *Granite State*, 2020 WL 8678020, at *4 (citing *Pelagidis v. Future Care, Inc.*, No. H-17-3798, 2018 WL 2221838, at *7–8 (S.D. Tex. May 15, 2018) (collecting cases)).

Like the majority of courts in this district, this Court is not persuaded that the 2011 amendment brought such monumental change to maritime removal jurisdiction. "Absent controlling precedent to the contrary, the court is not inclined to infer that such a 'revolutionary procedural change ha[s] undesignedly come to pass.'" *Clear Lake*, 2015 WL 1876338, at *2 (quoting *Romero v. Int'l Terminal Operating Co.*, 358 U.S. 354, 369 (1959)).

A plaintiff who believes that a case has been improperly removed may ask the federal court to remand the matter to state court. 28 U.S.C. § 1447(c). The removing party bears the burden of establishing both the existence of federal subject-matter jurisdiction and that removal is otherwise proper. *Vantage Drilling Co. v. Hsin-Chi Su*, 741 F.3d 535, 537 (5th Cir. 2014); *Mumfrey v. CVS Pharmacy, Inc.*, 719 F.3d 392, 397 (5th Cir. 2013) (citing *Manguno v. Prudential Prop. & Cas. Ins. Co.*, 276 F.3d 720, 723 (5th Cir. 2002) (internal citation omitted)). This is "a heavy burden." *Sid Richardson Carbon & Gasoline Co. v. Interenergy Res., Ltd.*, 99 F.3d 746, 751 (5th Cir. 1996). Due to significant federalism concerns, removal statutes must be "construed 'strictly against removal and for remand.'" *Hicks v. Martinrea Auto. Structures (USA), Inc.*, 12 F.4th 511, 515 (5th Cir. 2021) (quoting *Eastus v. Blue Bell Creameries, L.P.*, 97 F.3d 100, 106 (5th Cir. 1996)). All "doubts regarding whether removal jurisdiction is proper should be resolved against federal jurisdiction." *Oesch v. Woman's Hosp. of Tex.*, Civ. Action No. H–11–770, 2012 WL 950109, at *5 (S.D. Tex. Mar. 20, 2012) (citing *Acuna v. Brown & Root, Inc.*, 200 F.3d 335, 339 (5th Cir. 2000)); *see also Oliva v. Chrysler Corp.*, 978 F. Supp. 685, 688 (S.D. Tex. 1997) ("If federal jurisdiction is doubtful, a remand is necessary." (internal quotation marks and citation omitted)).

b. Jones Act and Outer Continental Shelf Lands Act.

Under the Jones Act, a seaman may bring a negligence cause of action against

his employer. *Santee v. Oceaneering Int'l, Inc.*, 110 F.4th 800, 805 (5th Cir. 2024) (citing 46 U.S.C. § 30104). "A Jones Act seaman may also bring a claim against his employer for maintenance and cure and unseaworthiness." *Rutherford v. Pontchartrain Materials Corp., LLC*, 732 F. Supp. 3d 536, 543 (E.D. La. 2024) (first citing *Becker v. Tidewater, Inc.*, 335 F.3d 376, 387 (5th Cir. 2003); then citing *Meche v. Doucet*, 777 F.3d 237, 244 (5th Cir. 2015)).[5] Jones Act cases, brought in state court, are not removable to federal court, unless there is an independent basis of federal jurisdiction, and the Jones Act claim is "fraudulently pleaded" or pleaded in such a way that there is a strong likelihood that the plaintiff cannot prove seaman status. *Santee*, 110 F.4th at 805 (citing *Hufnagel v. Omega Serv. Indus., Inc.*, 182 F.3d 340, 345 (5th Cir. 1999)). "Remand may be denied only where, resolving all factual disputes and legal ambiguities in plaintiff's favor, the court determines that the plaintiff has no possibility of establishing a Jones Act claim on the merits." *Perry v. Halliburton Energy Servs., Inc.*, No. 4:23-CV-4441, 2024 WL 3541601, at *2 (S.D. Tex. June 21, 2024), *adopted*, No. CV H-23-4441, 2024 WL 3543451 (S.D. Tex. July 23, 2024) (citing *Hufnagel*, 182 F.3d at 346).

However, the Court need not evaluate the viability of any Jones Act claims in

[5] In fact, "[a] seaman may bring suit under the Jones Act *only* against his employers." *Matter of Diamond B. Indus., LLC*, 663 F. Supp. 3d 582, 589 (E.D. La. 2023) (emphasis added) (quoting *Scarborough v. Clemco Indus.*, 391 F.3d 660, 667 (5th Cir. 2004). Therefore, Plaintiff cannot bring a Jones Act claim against W&T Offshore.

a "hybrid" case—one involving a claim arising under federal law (e.g., OCSLA) and one made nonremovable by statute (e.g., Jones Act)—which allows for severance and remand of the Jones Act claims. *McDonald v. Enermech Mech. Servs., Inc.*, No. 4:23-cv-126, 2023 WL 4109786, at *4 (S.D. Tex. May 30, 2023), *adopted*, 2023 WL 4110090 (S.D. Tex. June 20, 2023) ("Like other courts that have addressed the removal and remand of 'hybrid' claims, this Court declines to conduct a summary inquiry into the viability of the Jones Act claim because it is unnecessary for the exercise of federal jurisdiction in this case." (internal citations omitted)).

Under OCSLA, "the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with…any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the minerals, of the subsoil and seabed of the outer Continental Shelf…." *Perry*, 2024 WL 3541601, at *2 (citing *In re Deepwater Horizon*, 745 F.3d 157, 163 (5th Cir. 2014) (internal citation omitted)).[6] "The Fifth Circuit interprets this jurisdictional grant broadly, using a 'but-for' test to determine if a cause of action arises out of or in connection to the operation." *Id.* at *7 (citing *Ranquille v. Aminoil Inc.*, No. 14-cv-164, 2014 WL 4387337, at *2 (E.D. La. Sept.

[6] The application of OCSLA jurisdiction to personal injuries is based on a two-prong test asking 'whether (1) the activities that caused the injury constituted an "operation" "conducted on the outer Continental Shelf" that involved the exploration[, development,] and production of minerals, and (2) the case "arises out of, or in connection with" the operation.'" *Perry*, 2024 WL 3541601, at *3 (quoting *In re Deepwater Horizon*, 745 F.3d at 163 (internal citation omitted))."

4, 2014) (internal citation omitted)). "OCSLA jurisdiction was 'intended to govern the full range of potential legal problems that might arise in connection with operations on the Outer Continental Shelf.'" *Id.* at *3 (citing *Laredo Offshore Const., Inc. v. Hunt Oil Co.*, 754 F.2d 1223, 1228 (5th Cir. 1985) (internal citation omitted)).

III. THE JONES ACT CLAIMS SHOULD BE SEVERED AND REMANDED, BUT THE GENERAL NEGLIGENCE CLAIM SHOULD REMAIN IN FEDERAL COURT.

Plaintiff contends there is no OCSLA jurisdiction, arguing that (1) the presence of Jones Act claims makes the entire case nonremovable; (2) claims against Texas Defendant W&T are nonremovable because maritime claims governed by OCSLA do not meet federal removal criteria if a defendant resides in the state where the case was filed; and (3) OCSLA jurisdiction requires that the activity causing the injury be part of mineral exploration, development, or production, and that because Plaintiff was being transported for medical care when the incident occurred, the injury does not fall under OCSLA. ECF No. 7 at 4.

W&T responds that pleading a Jones Act claim does not bar removal of a matter or require remand of the entire matter, ECF No. 13 at 9; it is not prevented from removing an action where there exists some basis for jurisdiction other than admiralty, such as OCSLA, *id.* at 9-10; and the Fifth Circuit merely requires a "but for" connection between the OCS operations and cause of action—whether Plaintiffs injuries or claims would not have arisen "but for" the OCS operations, *id.* at 6-8.

Defendant correctly states that the presence of Jones Act claims does not make the entire case *per se* nonremovable. As discussed above, while Jones Act claims themselves cannot be removed unless there is an independent grant of federal jurisdiction and those claims are fraudulently pleaded, *Santee*, 110 F.4th at 805 (citing *Hufnagel*, 182 F.3d at 345), if other maritime claims with an independent basis for federal jurisdiction, such as OCSLA, are pleaded, those claims are removable; the Jones Act claims are severed and remanded, and the other claims remain in federal court, *McDonald*, 2023 WL 4109786, at *4.

Regarding Plaintiff's assertion that federal removal criteria is not satisfied where Defendant resides in the same state in which the claims were filed, the Fifth Circuit addressed the same argument in *Barker v. Hercules Offshore, Inc.* 713 F.3d at 222. The *Barker* court held that "the citizenship requirement in [28 U.S.C.] § 1441(b) only applies when a case is removed on the basis of diversity jurisdiction." *Id.* at 223. "Because federal question jurisdiction is present under OCSLA, and because…maritime law does not supplant that grant of federal question jurisdiction, it follows that this action is removable 'without regard to the citizenship or residence of the parties' under § 1441(b) (2011)." *Id.* at 222.[7]

[7] To emphasize, "[m]aritime law, when it applies under OCSLA, displaces federal law only as to the substantive law of decision and has no effect on the removal of an OCSLA action." *Id.* at 220 (citing *Dahlen v. Gulf Crews, Inc.*, 281 F.3d 487, 492 (5th Cir. 2002)). "As a primary matter, this court has emphasized that 'the saving to suitors' clause under general maritime law 'does not guarantee [plaintiffs] a nonfederal *forum* or limit the right of defendants to remove such actions to federal court where there exists some basis for federal jurisdiction other than admiralty." *Id.*

Plaintiff's argument that OCSLA's application requires that the activity causing his injury be part of mineral exploration, development, or production is also an incorrect statement of the law. If Plaintiff would not have suffered the alleged injury but for his work on the OCS, then the requisite causation is met. *Sam v. Laborde Marine, L.L.C.*, Civ. Action No. H-19-4041, 2020 WL 59633, at *3 (S.D. Tex. Jan. 6, 2020) (finding OCSLA jurisdiction even though Plaintiff was not actively engaged in OCS activities at the time of injury because he was employed to work on an OCS platform); *Lopez v. Quality Constr. & Prod., LLC*, Civ. Action No. 20-250-BAJ-EWD, 2024 WL 1481423, at *6 (M.D. La. Feb. 28, 2024) (discussing Fifth Circuit case that upheld OCSLA jurisdiction even though Plaintiff was not specifically engaged in his foreman duties at the time of injury because he would not have been injured "but for" his work on the platform (citing *Recar v. CNG Producing Co.*, 853 F.2d 367-68 (5th Cir. 1988))). Because Plaintiff was employed to support work being performed on the OCS platform, including the development and production of minerals of the subsoil and seabed of the OCS, and his injury would not have occurred but for his assignment, both prongs of the OCSLA jurisdiction test are satisfied. *Sam*, 2020 WL 59633, at *3.

Thus, while the Jones Act claims against employers REC and GOL are not

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(emphasis in original) (quoting *Tenn. Gas. Pipeline v. Hous. Cas. Ins. Co.*, 87 F.3d 150, 153 (5th Cir. 1996)). "Instead, removal of maritime cases is permissible as long as there is an independent basis for federal jurisdiction." *Id.* (same).

removable, the general negligence claim against W&T Offshore is removable because of OCSLA jurisdiction. Consequently, the Jones Act claims should be severed and remanded back to state court and the general negligence claim remain in federal court.

IV. CONCLUSION

Therefore, it is **ORDERED** that Defendants REC and GOL's motion to dismiss, ECF No. 6, is **DENIED** as **MOOT**.

In addition, the Court **RECOMMENDS** that Plaintiff's motion to remand, ECF No. 7, be **GRANTED, in part**, and his Jones Act claims should be **SEVERED** from this case and **REMANDED** to the state court from which it was removed, and **DENIED, in part**, with respect to his general negligence claim asserted against W&T, which should remain in this Court.

The Parties have fourteen days from service of this Report and Recommendation to file written objections. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b). Failure to file timely objections will preclude review of factual findings or legal conclusions, except for plain error. *Quinn v. Guerrero*, 863 F.3d 353, 358 (5th Cir. 2017).

Signed at Houston, Texas, on February 26, 2025.

Dena Palermo

Dena Hanovice Palermo
United States Magistrate Judge