



The Court Reporter - Commentary

Court Interprets the OCSLA in *Valladolid*

Published on: 1/17/2012

Peder Batalden, Hovitz & Levy LLP



On January 11, 2012, the United States Supreme Court issued an opinion affirming the judgment of the Ninth Circuit in *Pacific Operators Offshore, LLP v. Valladolid*. The case involves the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. §1333(b), which extends workers compensation benefits available under the Longshore and Harbor Workers' Compensation Act to injuries "occurring as the result of operations conducted on the" Outer Continental Shelf (OCS) for the purpose of extracting natural resources from the Shelf. The Ninth Circuit determined that OCSLA covers an employee who establishes a "substantial nexus" between his injury and his employer's extractive operations. The Court affirmed and endorsed that test, holding that "the injured employee [must] establish a significant causal link between the injury that he suffered and his employer's on-OCS operations conducted for the purpose of extracting natural resources from the OCS."

Pacific Operators Offshore operates two drilling platforms on the OCS off the California coast, plus an onshore oil and gas processing facility. Employee Juan Valladolid spent 98 percent of his time working on an OCS platform, but he was killed in a forklift accident while working at the onshore facility. His widow sought OCSLA benefits, but an Administrative Law Judge dismissed the widow's claim, reasoning that OCSLA benefits are unavailable for accidents occurring on dry land. The Benefits Review Board (within the Labor Department) affirmed, but the Ninth Circuit reversed.

The Supreme Court (per Justice Thomas) noted that the Third, Fifth, and Ninth Circuits had each devised different tests to determine eligibility for benefits under OCSLA, and that the Solicitor General had devised yet a fourth test in the course of briefing the case. The Court rejected the Third Circuit's lenient "but-for" causation test, in which virtually any injury remotely related to OCS operations is compensable. The Court also rejected the Fifth Circuit's bright-line geographic-boundary test, in which only injuries occurring on an OCS platform or the waters above the OCS are compensable. And the Court also rejected a "status" test proposed by the Solicitor General and the widow, which would have covered off-OCS injuries for those employees whose performed substantial work on the OCS. The Court eventually settled on the remaining option—the Ninth Circuit's vague "substantial nexus" test—even though the Court conceded that "the Ninth Circuit's test may not be the easiest to administer." Under this test, "the injured employee [must] establish a significant causal link between the injury that he suffered and his employer's on-OCS operations conducted for the purpose of extracting natural resources from the OCS." The Court remanded the case for further proceedings, rather than applying this standard to the facts of the case.

Justice Scalia (joined by Justice Alito) concurred separately because he would interpret the Ninth Circuit's "substantial nexus" test to require an employee to make a showing of proximate causation. Justice Scalia argues persuasively that the majority opinion essentially adopts that view by citing a proximate cause decision in the course of explaining why a "substantial nexus" standard is faithful to the statutory text.

We anticipate that Pacific Operators will eventually win this case on remand. Presumably few judges will perceive a “substantial nexus” between the onshore forklift accident and the offshore drilling operations. But it’s hazardous to make any predictions about how this pliable test will be administered. Future cases with different facts will present close calls. Many cases will have to be litigated before anyone can confidently predict what is and is not a “substantial nexus.”

Peder Batalden is an attorney at Horvitz & Levy LLP in Los Angeles. Contact Peder [here](#).

[DRI Resources](#)

[About DRI](#)

[Join DRI](#)

[Continuing Legal Education](#)

[DRI Store](#)

DRI -- The Voice of the Defense Bar

Copyright 2012 DRI [\[Disclaimer\]](#)