

AMENDMENTS OF RULES.

ORDER.

IT IS ORDERED that paragraph 3 of Rule 38 of the Rules of this Court be amended to read as follows:

"3. Notice of the filing of the petition, together with a copy of the petition, printed record, and supporting brief shall be served by the petitioner on counsel for the respondent within ten days after the filing (unless enlarged by the court or a justice thereof), and due proof of service shall be filed with the clerk. If the United States, or an officer or agency thereof, is respondent, the service of the petition, record, and brief shall be made on the Solicitor General at Washington, D. C. Counsel for the respondent shall have thirty days (unless enlarged by the court or a justice thereof), after notice, within which to file forty printed copies of an opposing brief, conforming to Rules 26 and 27. The brief must bear the name of a member of the bar of this court at the time of filing."

IT IS ORDERED that paragraph 2 of Rule 41 of the Rules of this Court be amended to read as follows:

"2. Within thirty days after the petition, brief, and record are served (unless enlarged by the court or a justice thereof) the respondent may file with the clerk forty printed copies of an opposing brief, conforming to Rules 26 and 27. Upon the expiration of that period, or upon an express waiver of the right to file or the actual filing of such brief in a shorter time, the petition, briefs, and record shall be distributed by the clerk to the court for its consideration. (See Rule 38, par. 4 (a).)"

MAY 17, 1948.

AMENDMENTS OF ADMIRALTY RULES.

ORDER.

IT IS ORDERED that rules 51, 52, 53, and 54 of the Rules of Practice for the Courts of the United States in Admiralty and Maritime Jurisdiction be, and they are hereby, amended to read as follows:

RULE 51. *Limitation of Liability—How Claimed.*—The owner or owners of any vessel who shall desire to claim the benefit of limitation of liability provided for in the third and fourth sections of the Act of March 3, 1851, entitled "An Act to limit the liability of shipowners and for other purposes" (Sections 183 to 189 of Title 46 of the U. S. Code) as now or hereafter amended or supplemented, may file a petition in the proper District Court of the United States, as hereinafter specified. Such petition shall set forth the facts and circumstances on which limitation of liability is claimed, and pray proper relief in that behalf. It shall also state facts showing that the petition is filed in the proper district; the voyage on which the demands sought to be limited arose, with the date and place of its termination; the amount of all demands including all unsatisfied liens or claims of lien, in contract or in tort, arising on that voyage, so far as known to the petitioner, and what suits, if any, are pending thereon; whether the vessel was damaged, lost or abandoned, and, if so, when and where; the value of the vessel at the close of the voyage or, in case of wreck, the value of her wreckage, strippings or proceeds, if any, and where and in whose possession they are; and the amount of any pending freight recovered or recoverable. If any of the above particulars are not fully known to the petitioner, a statement of such particulars according to the best knowledge, information, and belief of the petitioner shall be sufficient. With his petition the petitioner may, if he so elects, file

an interim stipulation, with sufficient sureties or an approved corporate surety, for the payment into court whenever the court shall so order, of the aggregate amount of the value of petitioner's interest in the vessel at the close of the voyage or, in case of wreck, the value of the wreckage, strippings or proceeds, and of any pending freight recovered or recoverable, with interest at six percent per annum from the date of the stipulation, and costs. If such interim stipulation is filed, it shall be accompanied by an affidavit or affidavits of a competent person or persons corroborating the statement in the petition as to value of the vessel, or her wreckage, etc., and her freight. Said court, having caused due appraisement to be had of the value of petitioner's interest in the vessel, or her wreckage, etc., and her freight shall make an order for the payment of the same into court, or for the giving of a stipulation, with sufficient sureties or an approved corporate surety, for the payment thereof into court with interest at six percent per annum from the date of the stipulation, whether interim or final, and costs, whenever the same shall be ordered; or, if the petitioner shall so elect, the court without such appraisement shall make an order for the transfer by the petitioner of his interest in such vessel, or her wreckage, etc., and freight to a trustee to be appointed by the court under the fourth section of said Act.

If a surrender of petitioner's interest in the vessel or her wreckage, etc., is offered to be made to a trustee, the petition must further show any prior paramount liens thereon, and what voyage or trips, if any, she has made since the voyage or trip on which the claims sought to be limited arose, and any existing liens arising upon any such subsequent voyage or trip, with the amounts and causes thereof, and the names and addresses of the lienors, so far as known; and whether the vessel sustained any injury upon or by reason of such subsequent voyage or trip.

Upon the filing of such interim stipulation, or upon determination of value by appraisal and compliance with the court's order with respect thereto, or upon compliance with a surrender order, as the case may be, the court shall issue a monition against all persons asserting claims in respect to which the petition seeks limitation, citing them to file their respective claims with the Clerk of said court and to serve on or mail to the proctors for the petitioner a copy thereof on or before a date to be named in said writ which shall be not less than 30 days after issuance of the same, which time the court, for cause shown, may enlarge.

Notice of the monition shall be published in such newspaper or newspapers as the court by rule or order may direct in substantially the following form, once in each week for four successive weeks before the return day of the monition:

UNITED STATES DISTRICT COURT

DISTRICT OF

NOTICE OF PETITION FOR EXONERATION FROM OR LIMITATION
OF LIABILITY

(Filed.....)

Notice is given that has filed a petition pursuant to Title 46, U. S. Code, §§ 183-189, claiming the right to exoneration from or limitation of liability for all claims arising on the voyage of the vessel from to terminating on

All persons having such claims must file them, under oath, as provided in United States Supreme Court Admiralty Rule 52, with the Clerk of this Court, at the U. S. Court House at and serve on or mail to the petitioner's proctors at a copy on or before or be defaulted. Personal attendance is not required.

Any claimant desiring to contest the claims of petitioner must file an answer to said petition, as required by Supreme Court Admiralty Rule 53, and serve on or mail to petitioner's proctors a copy.

.....
U. S. Marshal.

The petitioner not later than the day of second publication shall also mail a copy of the above notice (copy of the monition need not be mailed) to every person known to have made any claim against the vessel or the petitioner arising out of the voyage or trip on which the claims sought to be limited arose. In cases involving death a copy of such notice, together with a copy of Rule 52, shall be mailed to the decedent at his last-known address, and also to any person who shall be known to have made any claim on account of such death.

The said court shall also, on the application of the petitioner, make an order to restrain the further prosecution of all and any suit or suits against the petitioner and/or said vessel in respect to any claim or claims subject to limitation in the proceeding.

RULE 52. *Filing and Proof of Claim in Limited Liability Proceedings.*—Claims shall be filed with the Clerk of the Court in writing under oath and a copy shall be served upon the proctor for the petitioner on or before the return day of the monition. Each claim shall specify the various allegations of fact upon which the claimant relies in support of his claim, the items thereof, and the dates on which the same accrued. Within thirty days after the return day of the monition or within such time as the Court thereafter may allow, the petitioner shall mail to the proctor for each claimant (or if the claimant have no proctor to the claimant himself) a list setting forth (a) the name of each claimant, (b) the name and address of his proctor or attorney (if he is known to have one), (c) the nature of his claim, i. e., whether property loss, property damage, death, personal injury, etc., and (d) the amount thereof.

Whenever an interim stipulation has been filed as provided in Rule 51, any person claiming damages as aforesaid, who shall have filed his claim under oath, may file an exception controverting the value of the vessel at the close of the voyage, or, in case of wreck, the value of her wreckage, strippings or proceeds, and the amount of her pending freight, and the amount of the interim stipulation based thereon, and thereupon the court shall cause due appraisement to be had of the value of petitioner's interest in the vessel, or her wreckage, etc., and her freight; and if the court finds that the amount of the interim stipulation is either insufficient or excessive, the court shall make an order for the payment of the proper amount into court or, as the case may be, for a reduction in the amount of the stipulation or for the giving of an additional stipulation.

Proof of all claims which shall be filed in pursuance of said monition shall thereafter be made before a commissioner to be designated by the court, or before the court as the court may determine, subject to the right of any person interested to question or controvert the same; but no objection to any claim need be filed by any party to the proceeding; and on the completion of said proofs, the commissioner shall make report, or the court its findings on the claims so proven, and on confirmation of said commissioner's report, after hearing any exceptions thereto, or on such finding by the court, the moneys paid or secured to be paid into court as aforesaid or the proceeds of said vessel, or her wreckage, etc., and freight (after payment of costs and expenses) shall upon determination of liability be divided pro rata, subject to all provisions of law thereto appertaining, amongst the several claimants in proportion to the amount of their respective claims, duly proved and confirmed as aforesaid, saving, however, to all parties any priority to which they may be legally entitled.

RULE 53. *Rights of Owner to Contest Liability and of Claimants to Contest Exoneration from Liability or Limi-*

tation of Liability of Owner.—In the proceedings aforesaid, the petitioner shall be at liberty to contest his liability, or the liability of said vessel, provided he shall have complied with the requirements of Rule 51 and shall also have given a bond for costs and provided that in his petition he shall state the facts and circumstances by reason of which exoneration from liability is claimed; and any person claiming damages as aforesaid who shall have filed his claim under oath and intends to contest the right to exoneration or limitation, shall file an answer to such petition, and serve a copy on proctor for petitioner, and may contest the right of the owner or owners of said vessel, either to an exoneration from liability or to a limitation of liability under the said Act of Congress, or both, provided such answer shall in suitable allegations state the facts and circumstances by reason of which liability is claimed or right to limitation should be denied.

RULE 54. *Courts Having Cognizance of Limited Liability Procedure.*—The said petition shall be filed and the said proceedings had in any District Court of the United States in which said vessel has been libeled to answer for any claim in respect to which the petitioner seeks to limit liability; or, if the said vessel has not been libeled, then in the District Court for any district in which the owner has been sued in respect to any such claim. When the said vessel has not been libeled to answer the matters aforesaid, and suit has not been commenced against the said owner, the said proceedings may be had in the District Court of the district in which the said vessel may be, but if said vessel is not within any district and no suit has been commenced in any district, then the petition may be filed in any District Court. The District Court may, in its discretion, transfer the proceedings to any district for the convenience of the parties. If the vessel shall have already been sold, the proceeds shall represent the same for the purposes of these rules.

JUNE 21, 1948.

