

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
IN AND FOR COLLIER COUNTY, FLORIDA  
CIVIL DIVISION

ROBERT FORLONG,

Plaintiff(s),

CASE NO. 1302428CA

UCN: 112013CA0024280001XX

vs.

THOMAS W. COCHRAN, SOUTH FLORIDA  
PAINTING AND WATERPROOFING CO.,  
INC.,

Defendant(s).

FILED 21  
COLLIER COUNTY, FLORIDA  
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**ORDER ON DEFENDANT THOMAS W. COCHRAN'S  
MOTION FOR JUDGMENT ON THE PLEADINGS AS TO COUNT III**

THIS CAUSE having come on to be heard before this Honorable Court on Tuesday, November 19, 2013, upon the Defendant, THOMAS W. COCHRAN's Motion for Judgment on the Pleadings as to Count III, and the Court having heard argument of counsel, and being otherwise fully advised in the premises, finds as follows:

1. Pursuant to *In re: Amtrack "Sunset Limited" Train Crash in Bayou Canot, Alabama on September 22, 1993 v. Warrior & Gulf Navigation Company*, 121 F.3d 1421 (11<sup>th</sup> Cir. 1997), *Lollie v. Brown Marine Services, Inc.*, 995 F.2d 1565 (11<sup>th</sup> Cir. 1993), and *Frango v. Royal Caribbean Cruises Ltd.*, 891 So.2d 1208 (Fla. 3d DCA 2005), claims for loss of consortium are not permitted under General Maritime Law.
2. The decision of the United States Supreme Court, in *Atlantic Sounding Company, Inc. v. Townsend*, 557 U.S. 404, 129 S.Ct. 2561 (2009), did not change the law as determined in the above-cited cases.
3. This Court, therefore, determines that it should follow Eleventh Circuit precedent and find

that the claim of loss of consortium is not permitted under General Maritime Law.<sup>1</sup>

4. Defendant, THOMAS W. COCHRAN'S, Motion for Judgment on the Pleadings is, therefore, GRANTED to the extent that the claim being presented by Plaintiff, BRENDA FORLONG, is being presented under General Maritime Law.
5. With regard to the contention that loss of consortium claims are available to Plaintiff, BRENDA FORLONG, under Florida State law because the accident allegedly occurred in Florida territorial waters, this Court will permit Plaintiff to amend her complaint to assert that this accident occurred in Florida territorial waters, after which the Court will address any motions directed to that cause of action.

Accordingly, it is ORDERED AND ADJUDGED that:

1. Defendant, THOMAS W. COCHRAN'S, Motion for Judgment on the Pleadings as to Count III is GRANTED to the extent that Count III is based on General Maritime law, and
2. Plaintiff, BRENDA FORLONG, shall have twenty (20) days from the entry of this Order to allege a cause of action for loss of consortium arising under Florida State law.

DONE AND ORDERED in Chambers, at Naples, Collier County, Florida on this

19 day of December, 2013.

  
Cynthia A. Pivacek  
CIRCUIT COURT JUDGE

*Copies furnished to parties listed on the attached service list:*

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<sup>1</sup> This Court has reviewed *Ridley v. NCL (Bahamas), Ltd.*, 824 F.Supp.2d 1355 (S.D. Fla. 2010), decided subsequent to *Atlantic Sounding*, in which the Court determined that under Eleventh Circuit precedent, loss of consortium is not permitted under General Maritime law.

**SERVICE LIST**

**CASE NO. 1302428CA**

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