

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

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| IN THE MATTER OF |) | |
| GARVEY MARINE, INC., a |) | No. 03 C 5967 |
| Corporation, For Exoneration |) | Judge Joan H. Lefkow |
| From, or |) | |
| Limitation of, Liability. |) | |

MEMORANDUM OPINION AND ORDER

On April 10, 2003, Garvey Marine, Inc. ("Garvey Marine"), was operating a tugboat pushing two barges on the Calumet-Sag Channel. As the tugboat approached the Division Street Bridge located in Blue Island, Illinois, it struck a bucket suspended from an under-bridge boom owned by Equipment Rental Company ("ERC") and leased to Collins Engineers, Inc. ("Collins"). Collins' employees, Jeremy Koonce and Evan Buckhouse, were inside of the bucket at the time of impact. Mr. Buckhouse died as a result of the accident and Mr. Koonce has claimed personal injuries.

Following this incident, ERC and Christine Buckhouse, as Administrator of the Estate of Evan Buckhouse, filed suit against Garvey Marine and other parties in the Circuit Court of Cook County, Illinois. Before filing an answer in the state court suit, Garvey Marine filed suit under this court's admiralty jurisdiction, seeking "Exoneration From, or Limitation of, Liability" under the Limitation of Vessel Owner's Liability Act, 46 U.S.C. Sections 181-195, and the various statutes, rules, and regulations relating thereto. ERC, Buckhouse, and Koonce then filed claims in this court for damages against Garvey Marine. Thereafter, Garvey Marine filed an Amended

Third-Party Complaint asserting claims for indemnity and contribution against the City of Blue Island (“Blue Island”), Robinson Engineering, Ltd. (“Robinson”), Collins, ERC, Buckhouse, and Koonce. Before the court is Robinson’s motion for summary judgment. For the reasons set forth below, Robinson’s motion for summary judgment is granted.

SUMMARY JUDGMENT STANDARDS

Summary judgment obviates the need for a trial where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). To determine whether any genuine fact issue exists, the court must pierce the pleadings and assess the proof as presented in depositions, answers to interrogatories, admissions, and affidavits that are part of the record. Fed R. Civ. P. 56(c) Advisory Committee’s notes. The party seeking summary judgment bears the initial burden of proving there is no genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 91 L. Ed. 2d 265, 106 S. Ct. 2548 (1986). In response, the nonmoving party cannot rest on bare pleadings alone but must use the evidentiary tools listed above to designate specific material facts showing that there is a genuine issue for trial. *Id.* at 324; *Insolia v. Philip Morris Inc.*, 216 F.3d 596, 598 (7th Cir. 2000). A material fact must be outcome determinative under the governing law. *Insolia*, 216 F.3d at 598-99. Although a bare contention that an issue of fact exists is insufficient to create a factual dispute, *Bellaver v. Quanex Corp.*, 200 F.3d 485, 492 (7th Cir. 2000), the court must construe all facts in a light most favorable to the nonmoving party as well as view all reasonable inferences in that party’s favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255, 91 L. Ed. 2d 202, 106 S. Ct. 2505 (1986).