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**U.S. court OKs suit by terrified fisherman**

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A fisherman who says he was terrified by a freighter that narrowly missed his boat and fatally struck another fishing vessel in a heavy fog off Point Reyes is entitled to sue the ship's owner for emotional distress, a federal appeals court ruled Tuesday.

In a 2-1 decision, the Ninth U.S. Circuit Court of Appeals reinstated a suit by Brian Stacy that had been dismissed by a federal judge. Under maritime law, the court said, someone who is both physically endangered and emotionally traumatized by negligent conduct at sea can sue for damages.

Stacy, who lives in the San Luis Obispo area, was trolling for salmon north of San Francisco Bay in July 2007 when his radar picked up the 291-foot freighter Eva Danielsen, a mile away and on a collision course. He sent a danger signal and said the ship came so close that he could hear its engine and feel its wake, but avoided hitting him.

Shortly afterward, the Danielsen struck the boat of another salmon fisherman, Paul Wade, 55, of Capitola, whose body was found in the water the next morning. The Coast Guard later concluded that it might have saved Wade's life but was unaware that he was missing and called off its search after learning Stacy was safe.

Stacy said he needed psychiatric treatment after the incident and missed some time at work on his boat. His suit alleged that the freighter was operating at an unsafe speed without proper radar equipment, lookouts or signals.

Such suits, by someone who was physically uninjured but claimed emotional harm caused by careless or reckless conduct, are governed by different standards in federal courts than in state courts. Federal courts decide cases of maritime and railroad workers; state courts handle everyday negligent cases.

In California, plaintiffs must prove that the trauma they suffered was the result of seeing a close relative killed or injured, a restriction that the state Supreme Court says is needed to screen out unfounded claims. Federal courts have not imposed that requirement.

In Stacy's case, U.S. District Judge Claudia Wilken ruled in January 2009 that the standards of previous decisions required the plaintiff to prove that he had seen someone killed or seriously injured. Because Stacy did not claim that he had seen the freighter strike Wade's boat in the fog, Wilken dismissed his suit.

But the appeals court majority said Tuesday that a previous ruling, and an earlier Supreme Court decision, allow a suit by a seaman who was in a negligently operated vessel's "zone of danger," as Stacy alleged.

Stacy's lawyer, John Hughes, said the court properly recognized the need for a more flexible standard for incidents at sea, where a mariner may have a legitimate claim of trauma without having seen anyone else injured. A lawyer for the freighter's owner was unavailable for comment.

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