

1 he called 911. Second, the Court finds that it was objectively reasonable for Mr. Willcoxson to
2 investigate before calling 911, as opposed to calling 911 the very moment he was awakened.
3 Third, Mr. Willcoxson was not negligent in failing to deploy the fire extinguisher on board his
4 boat. Claimants presented no evidence that this would have made a difference, and the Court did
5 not believe it would have given that all Mr. Willcoxson could see was smoke wafting through a
6 vent. Fourth, there was no negligent failure to warn the occupants of neighboring boats. The
7 evidence presented showed that, at best, Mr. and Mrs. Willcoxson were aware of only one other
8 boat owner who was on his boat, and the nature of the conflagration was such that yelling “Fire!”
9 or rattling the dock would not have mitigated any fire damage. Fifth, resorting to self-help by
10 trying to fight the fire with hoses would have been both unwise and fruitless. The fire broke out
11 in the middle of the night on a boat that by its material constitution was highly flammable, and it
12 was ablaze quickly. The safe, objectively reasonable thing to do was get out of harm’s way and
13 wait for emergency help to arrive – and the Court finds this is what the Willcoxsons did. Sixth,
14 the Court rejects the applicability of claimant’s expert’s “rule of thumb” for gauging fire spread.
15 If a fire doubles in size every minute – and the Court believes that depends on what is burning –
16 then, by the expert’s own admission, the marina fire would have involved over 100 boats in five
17 or six minutes.

18 In sum, the Court concludes the WILLCOXSONS breached no duty of care on the night
19 of the fire and were not negligent in their response to the fire on their boat. Additionally, to the
20 extent the WILLCOXSONS could be faulted for their acts and omissions on the night of the fire,
21 those acts and omissions were not causally related to the spread of the fire and conflagration of
22 neighboring boats.

23 **It is hereby ORDERED, ADJUDGED AND DECREED** that all loss, destruction,
24 damage or injury resulting from the vessel and marina fire on or around February 26, 2006, at the
25 Marriot Marina in San Diego that began aboard the vessel GALLIVANT, was occasioned and
26 incurred without the WILLCOXSONS’ fault or liability.

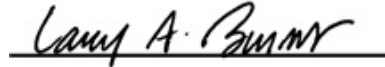
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1 **Accordingly, it is further ORDERED, ADJUDGED AND DECREED** that the
2 WILLCOXSONS are forever exonerated and discharged from all liability for any and all claims
3 for loss, salvage, destruction, damage, death or injury arising out of the vessel and marina fire
4 that began aboard the GALLIVANT on February 26, 2006.

5 **IT IS SO ORDERED.**

6 DATED: August 20, 2009

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8 **HONORABLE LARRY ALAN BURNS**
9 United States District Judge

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