



# SEMAPHORE

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## Riverboat Ruled as Casino and not Vessel

A decision by the Louisiana Third Circuit Court of Appeal that the Grand Palais riverboat casino is a “vessel” for the purposes of general maritime law has been reversed and rendered by the Supreme Court of Louisiana.

The case was initiated by Don Caldwell and Sheronda Caldwell individually against St Charles Gaming Company, after the former was injured when the gangway attached to the riverboat malfunctioned and collapsed on April 9, 2015.

Mr Caldwell, who had been engaged as a technician on the riverboat, filed a petition for damages alleging that the Grand Palais was a vessel under general maritime law and that he was a seaman under the Jones Act.



*The Grand Palais*

Although capable of navigation – as required by Louisiana statute – the Grand Palais had not moved from its current moorings since March 24, 2001. Necessary services were also provided via shoreside utility lines which had not been disconnected since that time.

Consequently, the defendant filed a motion for summary judgment, arguing that the plaintiff was not a seaman entitled to damages under the Jones Act, as he was not employed on a “vessel in navigation”.

Following a hearing, both plaintiff and defendant sought Court of Appeal review of the trial court’s decision to deny the cross motions for summary judgment. The Court of Appeal, sitting en banc, duly rendered a split 10-2 decision, denying the defendant’s application and granting that of the plaintiff.

In a judgment subsequently issued on January 29 this year by the Supreme Court of Louisiana, Retired Judge James Boddie (sitting in for Justice Marcus Clark) noted the body of previous rulings on the issue.

“Prior to its decision in this case, the jurisprudence from the Third Circuit Court of Appeal had uniformly held that riverboat casinos that were permanently moored were not vessels,” stated the judgment.

It continued that the evidence submitted in support of the cross motions for summary judgment indicated the following facts were not in dispute:

- the Grand Palais’s primary purpose is dockside gambling
- for over 14 years, the Grand Palais has not engaged in any maritime activity and has been moored at the same location in Westlake, with all operations required for its gaming activities serviced via land-based utility lines
- the side of the riverboat was integrated into the adjacent land-based pavilion and hotel
- although the Grand Palais could be returned to service as a vessel, albeit with some modifications, the evidence establishes that for a decade and a half, it has been moored indefinitely to provide and maintain its primary purpose of gaming activities

“The Court of Appeal decision holding the Grand Palais is a vessel under general maritime law is a significant change in the jurisprudence and conflicts with prior state and federal jurisprudence,” stated the judgment.

While acknowledging that precedents from the Supreme Court had created some latitude in determining whether a craft was a vessel, both *Stewart v Dutra Const Co* and *Lozman v City of Riviera Beach* had made it clear that the question of the “watercraft’s use ‘as a means of transportation on water’ is ... practical”, and not “merely ... theoretical”.

“Following our de novo review of the record, we conclude that although the Grand Palais was originally designed to transport people over water – and theoretically is capable of navigation – as a result of the changes to its physical characteristics, purpose and function spanning nearly a decade and a half, it is no longer a vessel used in maritime transportation.

“Thus, we find the court of appeal erred in holding otherwise and granting plaintiff’s motion for summary judgment on the issue of seaman status.

“Accordingly, for the above reasons, we hereby reverse the judgment of the court of appeal and grant defendant’s motion for summary judgment, dismissing plaintiff’s suit.”

### ***Dissenting Opinion***

However, Justice Jefferson Hughes provided a dissenting opinion.

“Respectfully, I would find that the plaintiff is a Jones Act seaman,” said the Justice.

“Plaintiff’s duties included chipping, grinding and painting, as well as fire team and rescue boat team – all normal maritime activities on a vessel. Plaintiff was injured when a gangway attached to the vessel malfunctioned and collapsed.

“While the primary purpose of the vessel is no longer to transport passengers or cargo, it is fully operational and capable of sailing, and not permanently moored to shore.

“This vessel is not a mere floating platform, or houseboat, or floating drydock without an engine. It has a captain and crew and can sail at any time. The courts seem to be slicing this question ever more thinly, but this riverboat has so many of the qualities of a traditional vessel that I do not see how its status can be denied.”

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