

Louisiana Supreme Court to Address Whether Permanently Moored Casinos Are “Vessels” Under Maritime Law

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The Louisiana Supreme Court will soon consider whether the Grand Palais casino in Lake Charles, Louisiana, qualifies as a “vessel” under the Jones Act and general maritime law. Indeed, the Court recently granted certiorari and agreed to review the Louisiana Third Circuit Court of Appeal’s decision in *Caldwell v. St Charles Gaming*, 18-868 (La. App. 4 Cir. 07/03/19), 2019 La. App. LEXIS 1208. In an *en banc* decision, the Third Circuit held that the Grand Palais casino is a “vessel,” meaning that many of its employees qualify as Jones Act seamen and would be entitled to maintenance and cure benefits in the event of a work-related injury. Additionally, unlike traditional workers’ compensation laws, the Jones Act allows covered employees to pursue negligence claims against their employers, which makes the “vessel” classification even more significant.

In a [July 2019 Admiralty & Maritime Newsletter article](#), Jones Walker maritime attorney Ford Wogan analyzed the significance of the Third Circuit’s *en banc* decision in *Caldwell*. In brief, the *en banc* Third Circuit concluded that the Grand Palais casino, which had been moored in the same location for 16 years, was a vessel because it was “designed for navigation, capable of navigation, and had been used in navigation.” But the *en banc* Third Circuit’s decision in *Caldwell* appears to conflict with prior Louisiana state court decisions holding that riverboat casinos are not vessels. The Third Circuit’s *en banc* decision also appears to be in conflict with the United States Supreme Court’s decision in *Lozman v. City of Riviera Beach, Florida*, 568 US 115 (2013), wherein the Supreme Court held that “a water craft is not ‘capable of being used’ for maritime transport in any meaningful sense if it has been permanently moored.”

In granting certiorari and agreeing to review the *en banc* Third Circuit’s decision in *Caldwell*, the Louisiana Supreme Court will weigh in on whether the Grand Palais casino qualifies as a “vessel” for purposes of federal maritime law. More broadly, the Louisiana Supreme Court appears primed to address whether riverboat casinos that remain moored in the same locations for extended periods of time are “permanently moored” in the sense contemplated by the US Supreme Court in *Lozman*, such that they do not qualify as vessels.

If the Louisiana Supreme Court sides with the Louisiana Third Circuit Court of Appeal in concluding that the Grand Palais casino is a “vessel,” it will be a significant decision for maritime stakeholders in

Louisiana. To conclude that the casino is a “vessel,” the Louisiana Supreme Court would be required to endorse an expansive interpretation of the term “vessel” and the leading cases decided by the US Supreme Court, which would broaden (1) the application of federal maritime law to riverboat casino workers in Louisiana and (2) the types of watercraft subject to the Ship Mortgage Act moving forward.

Oral argument is set to take place in early 2020.

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