

Louisiana Supreme Court Concludes That Permanently Moored Casinos Are Not “Vessels” Under Maritime Law

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The Louisiana Supreme Court recently issued its decision in *Caldwell v. St Charles Gaming* (No. 2019-CC-1238), holding that the Grand Palais Casino in Lake Charles, Louisiana, does not qualify as a “vessel” for purposes of the Jones Act or the general maritime law. The Court reversed the underlying *en banc* decision of the Louisiana Third Circuit Court of Appeal, which concluded that the Grand Palais Casino was a “vessel.” The Third Circuit’s decision was noteworthy for maritime stakeholders in Louisiana, as it raised the possibility that casino employees might qualify as Jones Act seamen and 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* appeared to conflict with prior Louisiana state court decisions holding that riverboat casinos are not vessels. The Third Circuit’s *en banc* decision also appeared to be in conflict with the United States Supreme Court’s decision in *Lozman v. City of Riviera Beach, Florida*, 568 U.S. 115 (2013), wherein the United States Supreme Court held that “a watercraft is not ‘capable of being used’ for maritime transport in any meaningful sense if it has been permanently moored.”

With its recent decision in *Caldwell*, the Louisiana Supreme Court rejected the *en banc* Third Circuit’s expansive interpretation of the term “vessel,” which it described as a “significant change in the jurisprudence [that] conflicts with prior state and federal jurisprudence.” Looking to the primary purpose of the craft-at-issue, the Louisiana Supreme Court recognized that the Grand Palais Casino’s primary purpose was not maritime navigation or the transportation of people or things over water. The Court noted that although the Grand Palais Casino may have originally been designed for navigation, it is no longer used in maritime transportation, as evidenced by “changes to its physical characteristics, purpose, and function spanning nearly a decade and a half.” Relatedly, the Louisiana Supreme Court found it significant that, for a decade and a half, the Grand Palais Casino had been “moored indefinitely to provide and maintain its primary purpose of gaming activities.”

The Louisiana Supreme Court's decision in *Caldwell* is significant because it reversed the appellate court's decision finding a floating casino was a vessel. The decision presents a more narrow definition of "vessel"; and to the extent that it is followed by subsequent courts, the Louisiana Supreme Court's decision means that federal maritime law would not apply to riverboat casino workers in Louisiana. It also would mean that permanently moored riverboat casinos are likely not subject to a preferred ship mortgage under federal statute.

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