

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2008 CA 0423

KENNETH ALLEN

VERSUS

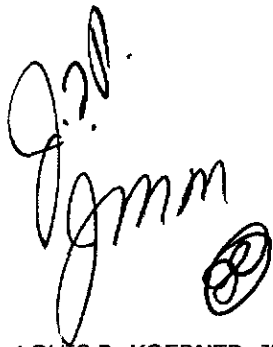
THE GRAY INSURANCE COMPANY AND  
ROCLAN SERVICE & SUPPLY, INC.

**Judgment rendered** SEP 26 2008

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Appealed from the  
32nd Judicial District Court  
in and for the Parish of Terrebonne, Louisiana  
Trial Court No. 142,067  
Honorable David Arceneaux, Judge

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LOUIS R. KOERNER, JR.  
HOUMA, LA

R. BRENT CUERIA  
NEW ORLEANS, LA

BARRY J. BOUDREAUX  
CARL T. SCHWAB  
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HOUMA, LA

ATTORNEYS FOR  
PLAINTIFF-APPELLANT  
KENNETH ALLEN

ATTORNEYS FOR  
DEFENDANTS-APPELLEES  
THE GRAY INSURANCE  
COMPANY AND ROCLAN  
SERVICE & SUPPLY, INC.

\*\*\*\*\*

**BEFORE: PETTIGREW, McDONALD, AND HUGHES, JJ.**

**PETTIGREW, J.**

Plaintiff, Kenneth Allen, filed suit against defendants, Roclan Service & Supply, Inc. and The Gray Insurance Company, seeking damages pursuant to the Jones Act (46 U.S.C.A. §688<sup>1</sup>), or alternatively, under the Longshore and Harbor Workers' Compensation Act (33 U.S.C.A. §905(b)), for personal injuries allegedly sustained while in the course and scope of his employment with Roclan. Defendants filed a motion for summary judgment, arguing that Mr. Allen was a platform worker with no connection to a vessel. Thus, defendants maintained, summary judgment was warranted, and Mr. Allen's claims should be dismissed with prejudice. Following a hearing on the motion for summary judgment, the trial court granted summary judgment in favor of defendants, finding that Mr. Allen did not qualify as a seaman under the Jones Act. In a judgment signed June 5, 2007, the trial court granted the summary judgment and dismissed Mr. Allen's suit, in its entirety, with prejudice.<sup>2</sup>

This appeal by Mr. Allen followed. The sole issue for our review is whether the trial court erred in finding that Mr. Allen did not qualify as a seaman under the Jones Act. The case of **Chandris, Inc. v. Latsis**, 515 U.S. 347, 115 S.Ct. 2172, 132 L.Ed.2d 314 (1995), as cited by the trial court in its reasons for judgment, is controlling precedent for assessing seaman status. After a thorough review of the record and relevant jurisprudence, we conclude that the record does not demonstrate that the trial court was manifestly erroneous in determining that Mr. Allen was not a seaman based on the facts and circumstances of this case. Therefore, we affirm the trial court's June 5, 2007 judgment in accordance with Uniform Rules--Courts of Appeal, Rule 2-16.2A(2), (4), (5), (6), and (8). All costs associated with this appeal are assessed against plaintiff-appellant, Kenneth Allen.

**AFFIRMED.**

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<sup>1</sup> Effective October 6, 2006, 46 U.S.C.A. §688 was repealed and the substance of same relating to the death or injury of a seaman was transferred to 46 U.S.C.A. §30104.

<sup>2</sup> According to the trial court's June 5, 2007 judgment, Mr. Allen's remaining claims pursuant to the Longshore and Harbor Workers' Compensation Act and the general maritime law were also dismissed with prejudice based upon representations of Mr. Allen's counsel that Mr. Allen had voluntarily withdrawn those claims.