**Potter v. Great Falls Ins. Co., 2020 ME 144**

POSTURE

ALJ found Potter was not a seaman for purposes of the Jones Act. Appellate Division affirmed. State Workers' Compensation Board granted Potter's petition for compensation for injuries sustained in the course of her employment. Maine Supreme Court held Appellate Division did not err by applying deferential standard of review to the ALJ's decree and affirmed decision.

FACTS

Potter worked as a marine technician for Cooke Aquaculture's offshore saltwater salmon farming operation. Her primary job as a marine technician was to care for the salmon, which were raised in cages located less than one mile offshore. Her duties consisted of tending, feeding, and harvesting the fish, and cleaning, maintaining, and repairing the pens and nets. To do this, she had to stand for hours on pipes that bobbed up and down in the ocean. In 2015 she was injured when she slipped on a pipe connected to the salmon cages and struck her knee on a hard surface. Great Falls is the workers’ compensation insurer.

STANDARDS OF REVIEW

*At Appellate Division*

Appellate Division declined Great Falls' request to review the ALJ's decision *de novo* stating that it was a mixed question of fact and law as to whether Potter was a Jones Act seaman. As such, its review of factual findings was limited to ensuring findings were supported by competent evidence.

Indeed, the ALJ's finding that Potter spent less than 30% of her working time in service of a vessel was supported by competent evidence. Thus, the Appellate Division affirmed.

*At Maine Supreme Court*

The Court confirmed that seaman status is a mixed question of law and fact. Review requires independent review (which is not *de novo* review). The Court does review *de novo* the application of federal law to the facts at bar.

In the absence of fraud, the ALJ's decision on questions of fact is final. The Court applied the two-part seaman status test from *Chandris v. Latsis*: 1st duties must contribute to function of vessel; 2nd a seaman must have a connection to vessel in navigation. Potter fails the second part of the test. An employee who spends less than 30% of her time on or in the service of a vessel in navigation does not qualify as a seaman. The ALJ found, and the record reflected, that Potter spent less than 30% of her time on a vessel. The Court cannot disturb this finding of fact. Therefore, Potter was not a seaman because she did not have a sufficient connection with a vessel in navigation.

**On March 5, Coast Guard concluded its public hearing for loss of F/V SCANDIES ROSE**

Formal public hearings have concluded. The investigation Board, composed jointly of officials from the U.S. Coast Guard and from the National Transportation Safety Board, will compile its findings into a report that will be released to the public. The Coast Guard Commandant will review the report and release a final action memo outlining the Coast Guard's position on the Board's recommendations.

The SCANDIES ROSE, a 130-foot crab fishing vessel built in 1978 and operated out of Dutch Harbor, sank 170 miles southwest of Kodiak on New Year's Eve 2019. Of seven crewmembers aboard, five were lost. Two crew survived after donning survival suits and accessing a life raft before being located and rescued by the USCG.

The Coast Guard's goal with this investigation was to improve any practice, procedure, policy, or regulation that can prevent future loss of life.

The Board heard from forty-three witnesses who provided testimony into:

* conditions prior to and at the time of the casualty;
* weather, icing, training fisheries;
* the vessel's condition;
* owner and operator organizational structures and culture;
* compliance record of the vessel;
* Coast Guard policy;
* practices related to vessel design; and
* engineering and inspection of the vessel.

There are 130 evidentiary exhibits [posted for public viewing](https://www.news.uscg.mil/news-by-region/headquarters/scandies-rose/).

**NOAA and USAID join forces to help nations combat illegal fishing practices**

The National Oceanic and Atmospheric Administration entered into a memorandum of understanding with the U.S. Agency for International Development to combat illegal, unreported, and unregulated fishing across borders and to promote sustainable fisheries abroad. Specifically, through the agreement these two agencies plan to:

1. support developing countries as they strengthen their own assessment, monitoring, and enforcement capabilities;
2. promote innovations in combating IUU fishing through alliances with other governments and the private sector; and
3. increase incentives for compliance and consequences for violating fisheries rules.