Gilbert Sanchez v. Smart Fabricators – Fifth Circuit Redefines "Seaman" Status

May 18, 2021

Categories:

Publications

Authors:

Kenneth Wayne Bullock, II
Lindsay M. Contreras

In a potentially significant ruling for the offshore oil and gas industry, the United States Court of Appeals for the Fifth Circuit issued its *en banc* rehearing opinion in *Gilbert Sanchez v. Smart Fabricators* [1] on May 11, 2021. In the opinion, the Fifth Circuit realigned its prior case precedent with U.S. Supreme Court precedent on the issue of seaman status, including differentiating between seamen who may seek recovery against their employer under the Jones Act, as opposed to those maritime workers covered under the Longshore and Harbor Worker's Compensation Act (LHWCA).[2]

The seaman status decision is an important threshold issue: If a claimant is a "seaman," then he or she may file suit under the Jones Act [3] against his or her employer for an illness or injury suffered during the course of employment; however, if the plaintiff is not a "seaman" but is otherwise engaged in work on or around navigable waters, then he or she is likely limited to recovery under the defined benefit compensation scheme of the LHWCA. Although neither the Jones Act nor the LHWCA define the term "seaman," it is clear the two Acts are mutually exclusive. Courts have historically struggled to differentiate between seamen eligible for Jones Act remedies versus other maritime workers provided relief exclusively under the LHWCA.[4]

In considering the seaman status question in *Sanchez*, the Fifth Circuit looked to a trio of U.S. Supreme Court cases on the issue, including *Chandris, Inc. v. Latsis*, which held that a Jones Act "seaman must have a connection to the vessel in navigation (or identifiable group of such vessels) that is substantial in terms of both its *duration* and its *nature*."[5] Following the substantial-connection test from *Chandris*, the Fifth Circuit sought to clarify it by enumerating the following additional inquiries:

- Does the worker owe his allegiance to the vessel, rather than simply to a shoreside employer?

2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

- Is the work sea-based, or does it involve ongoing sea activity?
- Is the worker's assignment to a vessel (a) limited to performance of a discrete task after which the worker's connection to the vessel ends, or does the worker's assignment (b) include sailing with the vessel from port to port or location to location?[6]

Using this test, the Fifth Circuit determined that the claimant, a welder purportedly injured while performing certain repair work on jack-up drilling rigs, was not a seaman because he "was not engaged in sea-based work that satisfied the requirement that he be substantially connected to a fleet of vessels in terms of the nature of his work."[7] As a result, the claimant could not maintain a Jones Act claim against his employer.[8]

The court's ruling in *Sanchez* has a potentially widespread impact on the offshore oil and gas industry. Industry participants should re-examine whether their employees meet the newly stated seaman status test, which may, in turn, require significant changes to employee-related risk management. For example:

- *Illness and Injury Claims:* As noted above, the Jones Act and the LHWCA are mutually exclusive remedies, with the seaman status inquiry as the deciding factor. After *Sanchez*, an employee who might have formerly qualified as a seaman may no longer meet the prescribed legal test, especially in the case of those assigned to do specific and discrete short-term jobs or tasks and not otherwise permanently assigned to a vessel or identifiable fleet of vessels.
- *Insurance:* Relatedly, *Sanchez* may require certain offshore oil and gas industry participants to reconsider their available insurance coverage. Although traditional maritime insurance policies may be appropriate where seaman status is not reasonably in doubt, other industry participants may now benefit from a broader type of policy or policies providing coverage for both Jones Act and LHWCA claims.

For more information, please contact Ken Bullock, Lindsay Contreras, or any attorney in Frost Brown Todd's Oil & Gas industry team.

2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

[1] *Sanchez v. Smart Fabricators of Tex., L.L.C.*, 19-20506, 2021 WL 1882565, at *1 (5th Cir. May 11, 2021).

[2] *Id.*

[3] "A seaman injured the course of employment or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal injury to, or death of, a railway employee apply to an action under this section." 46 U.S.C. § 30104.

[4] *Sanchez,* at *3.

[5] *Chandris, Inc. v. Latsis*, 515 U.S. 347, 368, 115 S. Ct. 2172, 2190, 132 L. Ed. 2d 314 (1995) (*emphasis added*).

[6] *Sanchez,* at *7.

[7] *Id.* at *1.

[8] *Id.* at *9.

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.

2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

FBT Gibbons