

United States v. Old Dominion Boat Club United States Court of Appeals, District of Columbia Circuit 630 F.3d 1039 (Decided January 11, 2011)

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broader breach of contract claims, they could not properly be separated to confer maritime jurisdiction upon the case.

The Court of Appeals for the Fifth Circuit, though finding that the appeal was not moot, ultimately vacated and remanded the district court's decision based on lack of admiralty jurisdiction.

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**RIPARIAN OWNERS ON POTOMAC RIVER HAD RIGHT TO LAY FILL AND
CONSTRUCT WHARVES SINCE RIPARIAN RIGHTS IN POTOMAC RIVER WERE
GOVERNED BY MARYLAND LAW AS IT EXISTED IN 1801, WHICH ALLOWED SUCH
ACTIVITIES**

**The Court of Appeals for the District of Columbia Circuit held that owners of waterfront
property on Potomac River had right to lay fill and construct wharves within harbor lines of
riverbed despite the United States' ownership of the riverbed**

United States v. Old Dominion Boat Club
United States Court of Appeals, District of Columbia Circuit
630 F.3d 1039
(Decided January 11, 2011)

In 1973, the United States brought an action against multiple riparian owners along the Potomac River in Alexandria, Virginia, in order to establish public access to the waterfront.¹ The property in question consisted of the land ceded to the United States by Maryland and Virginia to form the nation's capital. In 1846, after retroceding Alexandria back to Virginia, the United States defined the border of this federally owned riverbed as the high water mark of the Potomac, as it stood on the shore of Alexandria in 1971.² The Old Dominion Boat Club ("Old Dominion" or "Appellee") owned property on the reclaimed lands filled after 1791, and accordingly, opposed the United States' action to quiet title and establish public access to the Alexandrian waterfront on its property.

The district court held that although the United States holds fee title to the riverbed to the 1971 high-water mark. As riparian owners, Old Dominion and its predecessors in interest had the right to lay fill and build wharves. In deciding this, the district court employed Maryland law of 1801, because when Congress accepted the land from Maryland, it announced that Maryland law would still be applicable in the lands it had ceded.³ In 1801, when Congress created a judicial system for Washington D.C., it declared that the laws of Maryland as existed then would govern the lands ceded to the government by Maryland.⁴ In reaching this decision, the District Court relied on *U.S. v. Belt*,⁵ *U.S. v. Martin*,⁶ and *Martin v. Standard Oil Company of New Jersey*.⁷ These decisions were all based on the Maryland Court of Appeals' decision in *Baltimore & Ohio Railroad Co. v. Chase*,⁸ which stated, "the

¹ *Morris v. United States*, 174 U.S. 196, 223, 225 (1899).

² Act of July 9, 1846, § 1, 9 Stat. 35, 35-36.

³ Act of July 16, 1790, Ch. 28, § 1, 1 Stat. 130, 130.

⁴ Act of Feb. 27, 1801, Ch. 15, § 1, 2 Stat. 103, 103-05.

⁵ 142 F.2d 761 (D.C. Cir. 1944).

⁶ 177 F.2d 733 (D.C. Cir. 1949).

⁷ 198 F.2d 523 (D.C. Cir. 1952).

⁸ 43 Md. 23 (1875).

riparian proprietor, whose land is bounded by a navigable river . . . has the right to make a landing, wharf or pier for his own use”⁹

On appeal, the government first argued that Maryland decisions decided after *Belt, Martin*, and *Standard Oil* undermined the Maryland Court of Appeals decision in *Chase*. The United States asserted that these post-*Belt* decisions established that the *Chase* Court was wrong in holding that there was a common law right to lay fill and build wharves. The United States believed that since *Belt, Martin*, and *Standard Oil* used *Chase* as their foundation, and *Chase* had been undercut, the lower court’s decision needed to be reversed. In response, the Court held that none of the cases or statutes cited by the United States definitively established that as of the common law in 1801, no right to lay fill and construct wharfs existed. Second, the United States argued that the District Court relied upon cases that conflicted with prior precedent. Again, the Court of Appeals saw no validity to this argument. Specifically, the United States failed to cite a case that speaks to the scope of riparian rights, except a case where the federal government was acting to promote the navigability of waterways, which was not relevant here.¹⁰

The Court concluded that since the aforementioned cases were consistent with both Maryland and federal law, the Court was bound by precedent to follow their interpretation of Maryland law.¹¹ Accordingly, the Court of Appeals affirmed the district courts’ ruling that, “[D]espite the United States’ ownership of the riverbed, Old Dominion had not trespassed, nor was it obligated to provide public access, because as a riparian owner abutting District of Columbia waters, it had the right to lay fill and build wharves.”¹²

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UNITED STATES DISTRICT COURT LACKED SUBJECT MATTER JURISDICTION TO PROVIDE JUDICIAL REVIEW OF A FINAL ORDER OF THE UNITED STATES COAST GUARD IN A SUSPENSION AND REVOCATION ACTION AGAINST A MARINER

Reviewing the District Court’s dismissal *de novo*, the United States Court of Appeals for the Fifth Circuit held that the Plaintiff-Appellant lacked subject matter jurisdiction because under Coast Guard and National Transportation Safety Board statutes and regulations an Administrative Law Judge’s decision could only receive judicial review in federal court after first being appealed to the NTSB

Dresser v. MEBA Medical & Benefits Plan
United States Court of Appeals, Fifth Circuit
628 F.3d 705
(Decided December 22, 2010)

The United States Coast Guard commenced a Suspension and Revocation (“S & R”) action against the license of the plaintiff, Christopher J. Dresser, a licensed marine engineer, after he tested positive for tetrahydrocannabinol (“THC”), the active chemical compound of marijuana. Dresser asserted that the reason he tested positive because he ingested hemp seed oil as a dietary supplement, and not from using marijuana.

⁹ *Id.* at 35.

¹⁰ *Marine Ry. & Coal Co. v. United States*, 265 F. 437 (D.C. Cir. 1920).

¹¹ *Id.*

¹² *Old Dominion Boat Club*, 630 F.3d at 1041.