

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

RICHARD DUBUISSON

CIVIL ACTION

VERSUS

NO. 16-3640

A.I.S., INC. OF MASSACHUSETTS

SECTION "N" (3)

ORDER AND REASONS

Presently before the Court is the motion for summary judgment (Rec. Doc. 15) filed by Defendant A.I.S., Inc. of Massachusetts ("A.I.S.") relative to Plaintiff Richard Dubuisson's alleged "seaman status" for purpose of his Jones Act and maintenance and cure claims. Because the Court has granted, by separate order, Defendant's motion addressed to the evidentiary sufficiency of Plaintiff's Jones Act negligence and unseaworthiness claims (Rec. Doc. 14), it is the Court's understanding that only Plaintiff's maintenance and cure claims remain at issue in this litigation.

Having carefully considered the parties' competing submissions and applicable law, the Court finds that Defendant's motion must be denied. To prove seaman status, a plaintiff must show that: (1) his duties contributed to the function of the vessel or the accomplishment of its mission; and (2) he has a connection to a vessel in navigation or to an identifiable group of such vessels that is substantial in terms of both its duration and nature. *See, e.g., Chandris, Inc. v. Latsis*, 515 U.S. 347, 368 (1995). As a general rule, "a worker who spend less than about 30 percent of his time in service of a vessel in navigation should not qualify as a seaman." *Id.* at 371. Given that Plaintiff undisputedly spent 31% of the time aboard Captain Tolbert's vessel during the August 17 -

December 1, 2015 oyster sampling project, and Defendant's acknowledgement that Plaintiff's duties contributed to accomplishment of the vessel's mission, the Court, on the instant showing made, is not in a position to conclude that Plaintiff lacks seaman status as a matter of law. Rather, that question appears to be appropriately left to the trier-of-fact, the jury, for determination. Accordingly, **IT IS ORDERED** that Defendant's motion for summary judgment directed at seaman status (Rec. Doc. 15) is **DENIED**.

New Orleans, Louisiana, this 10th day of May 2017.



KURT D. ENGELHARDT
United States District Judge

Clerk to Copy:

Magistrate Judge Knowles