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Florida's "Cruises to Nowhere" Industry: Current Status and Future Prospects

Robert M. Jarvis

I. INTRODUCTION

OBTAINING RELIABLE INFORMATION about the "cruises to nowhere" (CTN)¹ industry in Florida² always has been difficult.³ As an unlicensed

and unregulated form of gambling,⁴ Florida's CTN industry, which has existed since 1984,⁵ has tended to attract operators who, for a variety of reasons, have preferred to maintain a low profile.⁶ The most notable exception—SunCruz Casinos' brash

Keywords: casino boats; cruises to nowhere; floating casinos; gambling ships; offshore gambling; unregulated gambling

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¹The term "cruises to nowhere" (CTN) originated during Prohibition (1920–33), when ships would sail out to international waters so that passengers could imbibe alcohol. *See, e.g., Law Sought to Bar "Nowhere" Cruises: American Ship Companies Will Ask Congress to Act Against Foreign Lines; Drinking on Trips Cited—Custom Officials Get Protest that 18th Amendment and Coastal Acts Are Violated*, N.Y. TIMES, Oct. 24, 1931, at 37. *See also* DANIEL OKRENT, LAST CALL: THE RISE AND FALL OF PROHIBITION 375 (2010) ("[B]ooze cruises' disappeared altogether by 1938. On the other hand, the 'cruise to nowhere' begat every passenger liner that [now] departs a U.S. port. . . .").

²Although this article is focused on Florida, CTN also currently take place in Georgia (from Brunswick, 70 miles north of Jacksonville, aboard the *Emerald Princess II*—*see* <<http://www.emeraldprincesscasino.com/>>) and in South Carolina (from Little River, 25 miles north of Myrtle Beach, aboard the *Big "M" I* and *Big "M" II*—*see* <<http://www.bigmcasino.com/>>). Former CTN jurisdictions include Massachusetts, New York, and Texas. *See Day Ships and Casino Cruises*, GAMING FLOOR, <<http://www.gamingfloor.com/DayShips.html>>.

Patently illegal CTN are not included in the present discussion. *See, e.g., United States v. Montford*, 27 F.3d 137 (5th Cir. 1994) (defendants knew that Mississippi did not permit such cruises). Likewise, CTN that do not offer gambling are excluded. *See, e.g., Duluth Superior Excursions, Inc. v. Makela*, 623 F.2d 1251 (8th Cir. 1980). Because riverboats and multi-day cruises represent distinct forms of shipboard gambling, *see* ROBERT M. JARVIS ET AL., GAMING LAW: CASES AND MATERIALS 397 (2003), they, too, are omitted.

³*See* Lori Pennington-Gray, *Florida's Day Cruise Industry: A Significant Contributor to Florida's Economy?*, in CRUISE SHIP TOURISM 290–98 (Ross Kingston Dowling ed., 2006) (observing, *id.* at 292, "It is fairly interesting that the value of the DCI [day cruise industry] has not been documented. In addition,

it is odd that a profile of the industry is lacking from academic textbooks and manuscripts.").

With few-to-no reporting requirements, how much Florida's CTN operators annually earn has long been a closely guarded secret. In 1997, Daniel Pollock of the Florida Greyhound Tracks Association "ballparked" the amount at \$172 million, which at the time worked out to \$7 million per ship. *See* Tyler Bridges, *Casino Boats' Revenue is Elusive Figure—One Estimate Puts It at \$172 Million*, MIAMI HERALD, Nov. 23, 1997, at 17A. In 2000, Gus Boulis sold the equivalent of 10 CTN vessels for \$14.5 million each. *See infra* note 7. By then, both government officials and the media routinely were using the figure \$500 million, for an average of \$25 million per boat. *See, e.g., Jan Glidewell, Who's Stacking the Deck?*, ST. PETERSBURG TIMES, Feb. 7, 2000, at 1 (Citrus Times) ("Gambling 'cruises to nowhere' have been going on for well over a decade. . . . In all, it is generally agreed to be a \$500-million-per-year industry. . . .").

⁴CTN are subject to a federal statute known as the Gambling Ship Act of 1948 (GSA), 18 U.S.C. §§ 1081–1083. The GSA was enacted to combat a fleet of gambling ships stationed off the coast of Los Angeles. *See* ERNEST MARQUEZ, NOIR AFLOAT: TONY CORNERO AND THE NOTORIOUS GAMBLING SHIPS OF SOUTHERN CALIFORNIA (2011). The law "prohibit[s] American citizens (or residents) from owning or running gambling ships and . . . prohibit[s] American-flagged ships from being [used as] gambling ships." O. Shane Balloun, *The True Obstacle to the Autonomy of Seasteads: American Law Enforcement Jurisdiction Over Homesteads on the High Seas*, 24 U.S.F. MAR. L.J. 409, 413 (2011–12) (footnotes omitted).

In 1994, Congress relaxed the GSA, thereby giving birth to the modern CTN industry:

At one time, the Gambling Ship Act flatly prohibited gambling aboard American-flag vessels engaging in interstate and foreign commerce, anywhere. *See* 18 U.S.C.A. §§ 1081–1082 (West 1984). The existence of the cruise-to-nowhere industry depends upon a 1994 amendment to the Act, which created exceptions for vessels on certain cruises, defined by reference to a provision of the Internal Revenue Code as of 1994 that levies a tax on the gambling revenues of such cruises.

(footnote 4 continued) See Violent Crime Control and Law Enforcement Act of 1994, Pub.L. No. 103-322, § 320501, 108 Stat. 1796, 2114–15 (1994) (amending 18 U.S.C. § 1081). In 1994, the Internal Revenue Code defined such cruises as (*inter alia*) those that return within 24 hours to their port of embarkation and conduct gambling (subject to federal taxation) “beyond the territorial waters of the United States.” 26 U.S.C. § 4472 (1994).

United States v. One Big Six Wheel, 166 F.3d 498, 499 (2d Cir. 1999).

The modern CTN industry also relies on a set of 1992 changes to the Johnson Act, 15 U.S.C. §§ 1171–1178, which was enacted in 1951 to thwart the interstate transportation of gambling devices:

The 1992 amendments altered the Johnson Act’s general ban on maritime gambling. Prior to the amendments, it was “unlawful to manufacture, recondition, repair, sell, transport, possess, or use any gambling device... within the special maritime” jurisdiction of the United States. 15 U.S.C.A. § 1175 (1990). The Justice Department, however, interpreted this prohibition not “to apply to foreign-flag vessels entering the United States.” H.R. Rep. No. 102-357 (1991). The effect was that American flag vessels were restricted from offering gambling to their passengers while foreign flag vessels were free to do so. This put American flag vessels at a competitive disadvantage in the lucrative leisure cruise industry. *See id.*

Congress reacted to the disparity by amending the Johnson Act to make clear that it applied to vessels “documented under the laws of a foreign country.” 15 U.S.C. § 1175(a). Additionally, Congress crafted exceptions to the Johnson Act’s blanket restrictions related to gambling devices. First, section 1175 no longer restricts the transport and possession of gambling devices on vessels, provided that those devices are not used while the vessel is within the boundaries of a state or possession of the United States. *Id.* § 1175(b)(1)(A)–(B). Second, section 1175 no longer prohibits the repair and use of gambling devices outside of those boundaries, unless the ship is on a cruise to nowhere and the state in which that cruise “begins and ends has enacted a statute the terms of which prohibit that repair or use on that voyage.” *Id.* § 1175(b)(1)(A), (b)(2).

Casino Ventures v. Stewart, 183 F.3d 307, 309 (4th Cir. 1999), *cert. denied*, 528 U.S. 1077 (2000).

As has been explained elsewhere, the 1992 amendments were included in an obscure bill known as the Flower Garden Banks National Marine Sanctuary Act. *See* Customs Letter Ruling 113479 (June 29, 1995) (Arthur P. Schifflin, Chief—Carrier Rulings Branch), *available at* <<https://rulings.cbp.gov/detail.asp?ru=113479&ac=pr>> (“Under the Gambling Devices Act of 1962 (Pub. L. 87-840, which enacted 15 U.S.C. § 1178, and amended 15 U.S.C. §§ 1171, 1172, and 1173) the possession, transportation, and use of gambling devices was expressly prohibited on U.S.-flag vessels. On March 9, 1992, the President signed into law Pub. L. 102-251, the Flower Garden Banks National Marine Sanctuary Act, section 202 of which amends section 2 of the Act of January 2, 1951 (15 U.S.C. § 1172, commonly referred to as the ‘Johnson Act’), section 5 of that Act (15 U.S.C. § 1175), and the first section of that Act (15 U.S.C. § 1171).”).

In 1996, Representative James E. King (R-Jacksonville) proposed that Florida “opt out” of the 1992 amendments (as it

had the right to do, see FLA. ATT’Y GEN. OP. 95–70, *available at* 1995 WL 698073), but the legislation died in committee over concerns that doing so would cost the state jobs and revenue. *See* Florida Senate, *Cruises to Nowhere*, INTERIM PROJECT REP. 2004-138, Nov. 2003, at 2–3, *available at* <http://archive.flsenate.gov/data/Publications/2004/Senate/reports/interim_reports/pdf/2004-138ft.pdf> [hereinafter Florida Senate 2003 Report] (discussing H.B. 2373 and S.B. 1906).⁵ *See* Florida Senate 2003 Report, *supra* note 4, at 4 (“Cruises to nowhere have been operating out of Florida since 1984. The industry has grown from 1 ship in 1984 to seventeen today”).

Prior to 1984, Florida had hosted occasional “one-off” CTN. In 1982, for example, the University of Miami baseball team organized such a cruise as a fundraiser. *See* Christine Brennan, *Cruising to Nowhere*, MIAMI HERALD, Sept. 27, 1982, at 3D (“[Coach] Ron Fraser’s ship came in, complete with gourmet dining, casino gambling, Las Vegas dancers, a comedy team and entertainer Vic Damone. Saturday night’s Cruise to Nowhere, the latest of Fraser’s promotional ideas, was a rousing success for his Hurricane baseball program. ‘It went great,’ Fraser said. ‘We had a standing-room-only crowd of over 900 and turned 60 away.’”). *See also* Larry Birger, *Coach Fraser’s Formula: Play Hard, Sell Hard*, MIAMI HERALD, Aug. 30, 1982, at 10BM (explaining that guests paid “\$125 [per] ticket for a special four-hour ‘Cruise to Nowhere’ Sept. 25 aboard the M/S Starward”).

In 1984, Fantasy Cruises announced it was going to begin regular CTN out of Fort Lauderdale using a Greek ship called the *Amerikanis*. Built in 1952 by Harland and Wolff (the Belfast firm responsible for the *Titanic*), the ship’s original owner had been London’s Union-Castle Line, which ran freighters to Africa. In 1967, after being sold to Chandris Lines (now Celebrity Cruises), the vessel was given a new name, a new flag, and a retrofit that made her suitable for Caribbean cruising. *See SS Amerikanis*, WIKIPEDIA: THE FREE ENCYCLOPEDIA, <https://en.wikipedia.org/wiki/SS_Amerikanis>.

Conscious of the fact that the GSA barred ships whose primary purpose was gambling, *see* United States v. Black, 291 F. Supp. 262 (S.D.N.Y. 1968), executives stressed that the *Amerikanis* would *not* focus on gambling:

“This is the first time anybody in the country has had a cruise like this,” said James Connolly, Port Everglades director. “People can sort of get a taste for cruising.” On the *Amerikanis*, a full-sized steamship, South Florida residents can partake of the usual cruise activities—drinking, dancing, dining and gambling.

“We think there are a great amount of people who would take a cruise to nowhere,” said Leo Robbins, executive vice president for Fantasy Cruises. “The time comes when all kinds of new ideas prove successful.”

Robbins said the lure of the ocean, and not the itch for gambling, will attract local residents to the cruise. He expects as many as 400,000 people will board the ship next year at Port Everglades.

“It’s not a casino trip at all,” he said.

Added Connolly: “These are not gambling ships. There’s no heavy action out there.”

David Satterfield, *Firm Gambles on Cruises to Nowhere*, MIAMI HERALD, July 21, 1984, at 1BR.

Hedging its bets, the *Amerikanis* offered a standard five-day Caribbean cruise during the week and CTN on the weekends:

Fantasy Cruises says its S/S *Amerikanis* will begin sailing year-round from Port Everglades beginning Oct. 12.

(*footnote 5 continued*) A “cruise to nowhere” will depart the Fort Lauderdale gateway at 8 p.m. each Friday and Saturday, returning to Port Everglades at 7 the following morning at a cost of \$49 per person, double occupancy. The price includes dinner, buffet and nightclub show.

The vessel sails again on a “cruise to nowhere” at 10 a.m. each Saturday and Sunday, returning to Port Everglades at 6 p.m. The tab is \$39 per person including lunch. Cabins, port and service charges additional.

To complete the itinerary, the *Amerikanis* will depart Sundays at 8 p.m. for a five-night cruise to Nassau [in the Bahamas] and Ocho Rios [in Jamaica].

Travel Tips, PALM BEACH POST, Aug. 5, 1984, at G1.

As planned, the *Amerikanis* began service in October. By December, the experiment was over. After fewer than 20 voyages, Fantasy announced that because of low ridership, the vessel was being redeployed to Puerto Rico. See Julie Calsi, *Sinking Numbers Forces Ship to Sail Away from Port*, MIAMI HERALD, Dec. 31, 1984, at 2BR.

Sensing an opportunity, Scandinavian World Cruises (soon to become SeaEscape), one of Florida’s “one-day” operators—so dubbed because their ships would sail to the Bahamas and back in a single day—hurriedly moved to fill the void. See David Lyons, *Scandinavian May Escape Total Disaster Yet*, MIAMI HERALD, Aug. 12, 1985, at 17BM (explaining that after various setbacks the year before, including two disastrous fires, the company was hoping for a turnaround and was banking heavily on CTN). (For a pictorial history of the company, see *Scandinavian World Cruises—SeaEscape*, <<http://www.simplonpc.co.uk/SeaEscape.html>>.)

By 1987, Florida had six CTN vessels. Their right to operate, however, had become an issue due to a pair of dueling opinions issued by Panama City State Attorney Jim Appleman and his Pensacola counterpart Curtis Golden. While Appleman thought the cruises were lawful, Golden disagreed. As a result, SeaEscape approached Senator Gwen Margolis (D-North Miami Beach) and got her to champion a bill confirming the industry’s legality. See Tyler Bridges, *Mysterious Loop-hole Launched Florida Fleet*, MIAMI HERALD, Nov. 23, 1997, at 17A (explaining that after the bill was vetoed by Governor Bob Martinez, Margolis was able to slip its provisions into an unrelated one dealing with bingo). See also FLA. SEN. J., May 28, 1987, at 486, available at <http://archive.flsenate.gov/data/Historical/Senate%20Journals/1980s/1987/27-452TO49805_28_87.PDF> (text of Margolis’s amendments to the bingo bill).

Although the new law certainly helped, see David Lyons, *The War of the One-Day Cruise: A Spirited Battle for a Growing Market*, MIAMI HERALD, June 27, 1988, at 7BM, questions remained due to the GSA. When Congress addressed them in 1994, the industry took off like a rocket. See Julie Kay, *Putting Cards on a Table at Sea: Gambling is Main Activity in Burgeoning “Cruises to Nowhere,”* MIAMI HERALD, Jan. 19, 1997, at 1J. See also *infra* note 9.

The 1994 changes had a second effect: lower entry barriers. Previously, to avoid prosecution for running a “gambling ship,” operators had to provide extensive non-gambling activities. Not only did such options take money, they required a full-sized vessel. By allowing operators to offer just gambling, the GSA dramatically slashed costs and made it possible for even the most thinly capitalized entrepreneur to jump in. This created a sharp clash between the existing “big ships” and the upstart “little boats”:

By late 1995 there were nine day-cruise vessels in South Florida, with half a dozen docked at ports in Miami, Fort Lauderdale and West Palm Beach. Five were large boats, 400 feet or longer, capable of carrying 600 to 1,500 passengers.

Now there are six afloat, and only two large ones. Only the two biggest ships dock at major ports: New Sea Escape’s *Ukraina* at Port Everglades, which calls itself “the only big ship in town,” and the *Viking Princess* at the Port of Palm Beach.

The large ships that used to dominate the market have been replaced by smaller vessels—“floating crap tables,” one executive called them—that usually carry only 100–200 passengers and are designed solely for gambling. These vessels are generally less than 200 feet long and weigh less than 300 tons, said Louis Perez, deputy director of the Port of Palm Beach.

“That’s a cork that bobs in the water,” Perez said.

Those smaller boats have apparently drawn gamblers away from all three of South Florida’s major ports, which have seen a significant decline in the number of passengers taking gambling cruises.

Said [Nikki Grossman, president of the Greater Fort Lauderdale Convention and Visitors Bureau]: “I think there is a limited number of people who want to do this, and the smaller ships are sharing—I hesitate to use the word ‘stealing’—the same population of customers.” . . .

The war among the gambling boats is a story of David beating Goliath.

The smaller boats don’t need a wide berth or a port pilot and they do not pay the port’s dock and wharfage rates.

Two years ago, Discovery Cruise Lines was the largest casino boat firm in South Florida with two cruise-to-nowhere ships. It is down to one ship now, after a fire on its other ship last year, and makes only day-long trips to Grand Bahama.

“We’re not a gambling boat,” says Burt Beer, Discovery vice president. “We’re more of a vacation trip company now.”

Beer said Discovery cannot compete with the cheaper prices charged by the smaller boats.

“In some cases, they charge nothing,” Beer said. “That’s a little bit below my costs.”

SunCruz charges a maximum of \$15; New Sea Escape charges \$29.95.

SunCruz, which has a vessel that docks in Hollywood and four other ships in Florida, lures players with a liberal comp system. [Greg Karan, the firm’s vice president] said 90 percent of the gamblers on the ship pay nothing because they give the boat enough action to justify a free trip.

SunCruz can afford such tactics because owner Gus Boulis, a prominent Hollywood developer, owns just about everything related to the ship—including the dock space. Karan says other gambling ships have to divide their profits among various sub-contractors, who provide the food and run the casino. . . .

Meanwhile, the large gambling ships are focusing on cruises to the Bahamas, where they can charge more and make more money because gamblers stay in the casinos longer.

Discovery goes to Freeport every day. New Sea Escape makes one cruise a week to the islands and is negotiating with Port Everglades to add another ship for Bahamas-only cruises.

Port officials and casino ship executives said they expect smaller boats to continue to dominate the cruise-to-

(footnote 5 continued) nowhere market. They also expect more failures in the business.

Lane Kelley, *Going Nowhere: Once-Popular Floating Casinos Are No Longer a Sure Bet to Succeed in South Florida*, S. FLA. SUN-SENTINEL, Oct. 19, 1997, at 1B. See also C. Dean Hofmeister, *Day Cruises and Gambling Boats Are Not the Same*, MIAMI HERALD, Dec. 7, 1997, at 2L (letter to the editor).

In describing the different options available, one popular guidebook advised readers:

There are a variety of boats in operation ranging from St. Petersburg's 2,000-passenger *Ocean Jewel* cruise ship all the way down to the yacht-sized *SunCruz I* casino boat in Key Largo which carries 149 passengers.

Generally, you will find that the larger ships have more of a variety of things to do besides the gambling, but the cost will be a little higher because of added port/service charges. Most of the ships that sail from the major ports, such as Port Everglades [Fort Lauderdale], Port of Palm Beach or Port Canaveral will add port/service charges to the quoted cruise price. Usually, there is also a charge to park your car at the large ports.

Most of the smaller boats which don't dock at the large ports don't have port/service charges added to their cruise prices. Also, most of the smaller boats offer free parking. . . .

[Almost] all Florida casino boats offer: blackjack, craps, roulette, slots and video poker. Some casinos also offer: mini-baccarat (MB), poker (P), pai gow poker (PGP), three-card poker (TCP), Caribbean stud poker (CSP), let it ride (LIR), big 6 wheel (B6) and bingo (BG).

Each casino boat sets its own minimum gambling age: on some boats it's 21 and on others it's 18. [In accordance with Florida state law, the] minimum drinking age on all boats is 21. Due to security restrictions, you must present a photo ID at all casino boats or you will not be allowed to board.

AMERICAN CASINO GUIDE 2006, at 169 (Steve Bourie ed., 2006).

Without question, Florida's most unusual gambling boat was the *Bounty Hunter*, a 40-foot fishing boat in Naples that had just one blackjack table:

[Russ Murphy III] bills his floating card parlor as "the world's smallest casino." But with a minimum bet of \$20 and a \$300 maximum wager, the stakes are anything but small.

"We're going after the avid blackjack player," he said. "For the people who want to play \$5 hands or the slots, that's not us." . . .

As for his boat's size? Murphy figures his modest operation is a virtue, or at least not a hindrance.

"If a guy's a real gambler, he doesn't care where he's playing," Murphy said.

Alan Scher Zagier, *Small Floating Casino Competes with Bigger Boats*, NAPLES DAILY NEWS, Mar. 15, 2001, at D1.

⁶In 1997, the *Miami Herald* published a long and unflattering profile of Florida's CTN operators. See Tyler Bridges, *Welcome to Florida, Home of America's Largest Unregulated Gambling Industry: Mysteries at the Helm*, MIAMI HERALD, Nov. 23, 1997, at 1A. Two weeks later, the *St. Petersburg Times* demanded that the Florida Legislature take action:

Three times in the last 20 years, Florida voters have rejected casino gambling. Yet casino-style gambling flourishes from ports in Tarpon Springs, Madeira Beach and other waterfront cities throughout the state. On its face, that inconsistency should anger Floridians enough to pressure state government to try to shut down the casino cruises. But the state's failure to adequately regulate and tax the industry is even more alarming.

A recent investigation by the *Miami Herald* detailed the astounding lack of scrutiny of the roughly two dozen gambling boats operating out of Florida ports. The state does not know for sure who owns the boats. It does not license the operators, check to see whether organized crime is involved, determine whether the games are rigged, or ensure the boats are not laundering money. . . .

Searching public records, the newspaper revealed details about several cruise ship officers and companies that could make it difficult for them to win a gambling license—if Florida issued gambling licenses. Among its findings:

- Steven C. Squitiro, vice president of Tarpon Springs Casinos Cruises, filed bankruptcy in 1995. He listed debts of more than \$400,000 and an average annual income of \$50,000. In 1997, he invested \$100,000 in the cruise ship. Squitiro would not tell the newspaper where he got the money. He would have to reveal that information to get a gambling license in most instances.
- Europa Cruises Corp. operates one of its ships from Madeira Beach. Ernest G. Walter, one of the company's major stockholders, was convicted of bank fraud this year in Austria. Regulators usually have a problem with convicts being major casino stockholders.
- Empress Cruise Lines operates boats from Treasure Island and Clearwater and has filed for bankruptcy. It has been accused in that court case of keeping two sets of books. Its attorney denies the charge.

. . . .

The simple solution to this festering problem is for the Legislature to repeal a legal loophole it created a decade ago and ban the casino ships. That isn't likely. A lawsuit filed by Attorney General Bob Butterworth and the St. Johns County sheriff that sought to ban slot machines on the cruise ships has been dismissed because the business there folded. Perhaps Butterworth can find another legal avenue to pursue.

In the meantime, Florida cannot afford to keep pre-tending casino cruise ships do not exist. If this state is stuck with them, it ought to at least tax and regulate the boats as heavily as casinos are in other states.

"*Unregulated Gambling*," ST. PETERSBURG TIMES, Dec. 8, 1997, at 12A. Of course, the anonymity enjoyed by the CTN industry also attracts players. See, e.g., Ron Scherer, *No Scrutiny of High Rollers on High Seas*, CHRISTIAN SCI. MONITOR, Feb. 19, 1998, at 1.

In 1999, Representative Frank R. Wolf (R-Va.), alarmed by a proposal to put a gambling boat in Virginia Beach, introduced the Cruises-to-Nowhere Act (H.R. 316). See 145 CONG. REC. E25, E26 (daily ed. Jan. 7, 1999). It directed that nothing in federal law was to be interpreted as preempting states in their efforts to regulate CTN. See Andy Crain, *Bill Would Allow States to Pull Plug on Gambling Boats*, SARASOTA HERALD-TRIB., Feb. 21, 1999, at 14A. Unsurprisingly, the

founder Konstantinos “Gus” Boulis—was killed in a mob hit in February 2001.⁷

Because of the paucity of data, a recent article in this journal cited 1996 statistics about Florida’s CTN industry in a way that made it seem the state’s casino boats were thriving: “Since the 1996 law was passed, a large number of ships

have begun operations off Florida and also in the Northeast. . . . Over 22 ships operate off Florida, generating collective revenues well over \$200 million a year.”⁸ In fact, Florida’s CTN industry looks nothing like it did in 1996. As of January 1, 2017, the state is down to just three gambling ships.⁹

(footnote 6 continued) proposal encountered strong resistance, with opponents claiming it would cost jobs. See Laurence Arnold, *Florida Cruise Industry, Ship Builders Oppose Floating Casino Ban*, STUART NEWS, July 29, 1999, at A6. As a result, it did not make it out of committee. See <<https://www.govtrack.us/congress/bills/106/hr316>>.

⁷Boulis, having made a fortune as the founder of Miami Subs, a fast food chain, started SunCruz in 1994 by buying yachts and turning them into casino boats. See JOHN LUNDIN, HOLLYWOOD GAMBLER: THE GUS BOULIS STORY (2004).

In 2005, three men were charged with killing Boulis: Anthony “Little Tony” Ferrari, James “Pudgy” Fiorillo, and Anthony “Big Tony” Moscatiello. In 2012, Fiorillo pleaded guilty to conspiracy and became a cooperating witness. After testifying against Ferrari and Moscatiello, Fiorillo was sentenced to time served and set free. See Rafael Olmeda, *Setup Man in Boulis Case Gets Time Served and Is Free*, S. FLA. SUN-SENTINEL, July 18, 2015, at 1B. In 2013, Ferrari was convicted of first-degree murder and sentenced to life imprisonment. See Erika Pesantes, “Little Tony” Gets Life in Boulis Murder, S. FLA. SUN-SENTINEL, Dec. 20, 2013, at 1A. In 2015, Moscatiello suffered the same fate. See Rafael Olmeda, *Final Defendant in Miami Subs Murder Gets Life Term*, S. FLA. SUN-SENTINEL, Sept. 18, 2015, at 1A.

Boulis’s execution took place five months after he sold SunCruz for \$147.5 million to Jack Abramoff, a Washington, D.C. lobbyist, and Adam Kidan, a New York attorney. The sale was necessitated by the fact that Boulis, as a foreign national, could not legally own American-flagged vessels. As part of the deal, Boulis retained an undisclosed 10% interest in SunCruz. The trio’s relationship quickly soured due to Abramoff and Kidan’s inability to fulfill their end of the bargain. When Boulis threatened to take back the company, he was murdered (Moscatiello, a member of the Gambino crime family, was an associate of people Abramoff knew). Although both Abramoff and Kidan eventually served time in federal prison, neither was prosecuted for Boulis’s death. For a further look at Abramoff and Kidan, see, e.g., the 2010 documentary CASINO JACK AND THE UNITED STATES OF MONEY; the 2010 feature film CASINO JACK (starring Kevin Spacey as Abramoff and Jon Lovitz as Kidan); and Abramoff’s 2011 autobiography, CAPITOL PUNISHMENT: THE HARD TRUTH ABOUT WASHINGTON CORRUPTION FROM AMERICA’S MOST NOTORIOUS LOBBYIST.

Following Boulis’s death, SunCruz filed for bankruptcy. See Jeff Shields, *SunCruz Delays Suits with Bankruptcy Filing*, S. FLA. SUN-SENTINEL, June 23, 2001, at 8B. After years of acrimonious litigation, see, e.g., In re SunCruz Casinos, LLC, 298 B.R. 821 (Bankr. S.D. Fla. 2003), the business was sold to Oceans Casino Cruises (headed by Boulis’s nephew Spiros Naos) for \$36.1 million. See *Suncruz Sale Completed*, MIAMI HERALD, Apr. 13, 2004, at 1C. Unable to duplicate its previous success, the company folded in 2009. See Wayne T. Price, *It’s Chapter 7 for SunCruz*, FLA. TODAY (Melbourne), Dec. 30, 2009, at C6.

⁸William Thompson, *Navigating the Tides of Fortune: Wagers on the Sea*, 20 GAMING L. REV. AND ECON. 743, 762 (2016) (footnotes omitted). As Thompson indicates, see *id.* at n.299, this statement is taken from Anthony Cabot and Robert Faiss,

Cruises to Nowhere, in GAMBLING IN AMERICA: AN ENCYCLOPEDIA OF HISTORY, ISSUES, AND SOCIETY (William N. Thompson ed., 2d ed. 2015).

It should be noted that the 1996 law referenced by Thompson (and Cabot and Faiss) has nothing to do with Florida or CTN. Instead, it concerned shipboard gambling in Alaska and riverboat gambling in Indiana. See Mike Dorning and Mary Jacoby, *Indiana’s Riverboats Get Leave to Sail*, CHI. TRIB., Oct. 13, 1996, at 2. ⁹Unfortunately, year-by-year statistics for the industry do not exist. Indeed, in 1996, as CTN were surging in Florida, state officials admitted they had no idea “exactly how many cruise ships leave Florida ports to sail three miles offshore and open up the slot machines and blackjack tables.” Tyler Bridges, *Cabinet Calls for a Ban on State’s Gaming Vessels*, MIAMI HERALD, Sept. 11, 1996, at 1BR. Likewise, the 2013 *Gambling Impact Study*, which the Florida Legislature paid the Spectrum Gaming Group \$400,000 to prepare, could do no better than say: “Statewide, there are also a handful of casino cruises departing daily from ports throughout the state, some of which provide overnight cruises to the Bahamas and others which solely provide day-cruise excursions into international waters for gaming. The casino cruise industry in Florida is in a constant state of flux, generally downward. Ten years ago there were far more casino cruises in operation, but the industry niche has not fared well competing against land-based operations.” SPECTRUM GAMING GROUP, GAMBLING IMPACT STUDY 100 (Oct. 28, 2013), available at <http://www.leg.state.fl.us/GamingStudy/docs/FGIS_Spectrum_28Oct2013.pdf>.

Nevertheless, based on an examination of the figures reported in published sources (primarily contemporaneous newspaper stories), it is possible to get a rough idea of how many CTN were operating in Florida at different times:

1994	7 (beginning of year); 13 (end of year)
1995	15
1996	20
1997	22
1998	26
1999	30
2000	28
2001	20
2002	18
2003	17
2004	17
2005	13
2006	10
2007	14
2008	14

It is much tougher to find numbers after 2008 for two reasons: (a) by 2007, reporters had shifted their attention to the casinos run by the Seminole Indian tribe; and, (b) in 2009, the Day Cruise Association, the CTN’s trade group, disbanded. See <<http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>> (search of state corporate records indicating that the organization was founded in

II. DEATH OF AN INDUSTRY

It is not hard to pinpoint the factors that have led to the demise of Florida’s CTN industry. Between February 2007 and September 2008, four unprecedented events combined to deliver a fatal blow:¹⁰

1. In February 2007, oil prices suddenly began spiraling out of control. During the next 18 months, the cost of marine diesel fuel nearly doubled.¹¹

2. In November 2007, after 16 years of contentious negotiations, Florida and the Seminole Indians signed their first gambling compact.¹² In exchange for a share of its profits, the tribe received: a) exclusive statewide baccarat and blackjack rights; and, b) exclusive slot machine rights in 65 of the state’s 67 counties.¹³ As a result, the tribe’s casinos became Floridians’ preferred places to gamble¹⁴ and, in relatively short order, put out of business SeaEscape (2008), SunCruz (2009), Palm

(footnote 9 continued) 1994, dropped the word “Florida” from its name in 1999, and was administratively dissolved in 2009). Nevertheless, I have come up with these additional counts:

2009	10
2010	7
2011	6
2012	6
2013	5
2014	5
2015	6
2016	4

According to one commentator, CTN in Florida between 1984 and 2007 took place on 67 different vessels. See DONALD D. SPENCER, HISTORY OF GAMBLING IN FLORIDA 71–90 (2008). Because Spencer missed a few ships (e.g., *Amerikanis*, *Southern Elegance*), and taking into account the post-2007 ships, the total now is likely 80–90. Coming up with a more definitive number is difficult for several reasons, including how frequently ships changed their identities. The *Victory II*, for example, currently sails out of Jacksonville. See *infra* notes 62–67. During earlier incarnations, she was known as the *Aquasino* (both with and without SunCruz’s name as a prefix), *Atlantic*, and *Max I* and was homeported in Key West, Little River, Lynn (Massachusetts), Miami Beach, and Myrtle Beach. See, e.g., *Horry County v. Aquasino Partners of South Carolina, LLC*, 2014 WL 2589825 (S.C. Ct. App. 2014); Thor Jourgensen, *Aquasino Puts into Lynn Port*, DAILY ITEM (Lynn, MA), May 16, 2013, at A1; Frank Houston, *More Tales from the Aquasino*, MIAMI NEW TIMES, Nov. 15, 2007, <<http://www.miaminewtimes.com/news/more-tales-from-the-aquasino-6524363>>; *Employees Learn Ropes on Keys Gambling Ship*, FLA. TODAY (Melbourne), Nov. 8, 1997, at 1B.

¹⁰By the time these began to occur, the industry already was suffering. See, e.g., Emily Witt, *The Boat to Perdition*, MIAMI NEW TIMES, Jan. 19, 2006, <<http://www.miaminewtimes.com/news/the-boat-to-perdition-6337763>> (describing 2005 as “The Year of Sinking Dangerously”); Scott Blake, *Passenger Counts Down for Local Gambling Ships*, FLA. TODAY (Melbourne), Nov. 3, 2005, at C1; Patrick Danner, *Gambling Ships Hit Troubled Waters*, MIAMI HERALD, Feb. 26, 2005, at 1A [hereinafter *Troubled Waters*]. As these sources report, the industry had been hit hard by: a) a 2004 constitutional amendment authorizing slots at Broward and Miami-Dade’s pari-mutuel facilities; b) the 2004 opening of the Seminoles’ flagship casinos in Hollywood and Tampa; and, c) the 2004 and

2005 hurricane seasons, which saw six storms batter Florida (Charley, Frances, Ivan, Jeanne, Katrina, and Wilma), resulting in numerous cancelled cruises and sharply higher insurance premiums.

¹¹See U.S. Energy Information Administration (EIA), *Weekly East Coast No 2 Diesel Ultra Low Sulfur (0–15 ppm) Retail Prices*, EIA, <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD_EPD2DXL0_PTE_R10_DPG&f=W> (documenting a jump in prices from \$2.45 per gallon in February 2007 to \$4.79 per gallon in July 2008). For a further discussion, see James D. Hamilton, *Causes and Consequences of the Oil Shock of 2007–08*, BROOKINGS PAPERS ON ECONOMIC ACTIVITY (Spring 2009), available at <https://www.brookings.edu/wp-content/uploads/2016/07/2009a_bpea_hamilton-1.pdf>. See also *World Oil Market Chronology from 2003*, WIKIPEDIA: THE FREE ENCYCLOPEDIA, <https://en.wikipedia.org/wiki/World_oil_market_chronology_from_2003>.

¹²See Robert M. Jarvis, *The 2007 Seminole-Florida Gambling Compact*, 12 GAMING L. REV. 13 (2008) [hereinafter *2007 Compact*]. The agreement was scuttled after the state’s legislators, having been left out of the negotiations, successfully challenged the deal in court. See *Florida House of Representatives v. Crist*, 999 So. 2d 601 (Fla. 2008), cert. denied sub nom. *Seminole Tribe of Fla. v. Florida House of Representatives*, 555 U.S. 1212 (2009). As a result, a new compact had to be hammered out with their participation. See Mary Ellen Klas, *Crist Signs Bill for \$1 Billion Gambling Pact*, ST. PETERSBURG TIMES, Apr. 29, 2010, at 5B. In the interim, the Seminoles, claiming that the original agreement was still in effect, proceeded with their expansion plans. See Allison Sirica, Note, *A Great Gamble: Why Compromise is the Best Bet to Resolve Florida’s Indian Gaming Crisis*, 61 FLA. L. REV. 1201, 1204 (2009).

¹³See *2007 Compact*, supra note 12. Broward and Miami-Dade counties were “carved out” due to a 2004 constitutional amendment that had granted their pari-mutuel facilities the right to have such devices. See FLA. CONST. art. X, § 23. See also Alan B. Koslow and David S. Romanik, *Gaming at Florida Pari-Mutuels: Racinos Are a Sure Bet for the Sunshine State*, 10 GAMING L. REV. 107 (2006).

¹⁴See Jaclyn Giovis, *At Sea, Long Odds: Challenges Mount for S. Florida Casino Ships*, S. FLA. SUN-SENTINEL, Aug. 17, 2008, at 1D (“When blackjack arrived at the Seminole Hard Rock Hotel and Casino in late June, cruise-to-nowhere boats lost their claim as the only venue to offer local residents one of the most popular casino card games. It’s proving to be a tough blow for these ships, especially on top of other challenges: stiffer competition for slots players, high fuel prices, a slow economy and rough weather during hurricane season.”).

- Beach Princess (2010), and Discovery (2011).¹⁵
3. In July 2008, Florida began prohibiting casino boats from dumping their wastewater at sea.¹⁶ Under this legislation, CTN operators either had to start using costly pump-out facilities
 4. In September 2008, Lehman Brothers, the New York City financial giant, filed for bankruptcy, thereby setting in motion the Great Recession. In response, Florida's economy,

¹⁵See Nick Sortal, *Rolling the Dice on the High Seas*, S. FLA. SUN-SENTINEL, Jan. 4, 2013, at 5 (Showtime). Although all four companies succumbed to the Seminoles, each did so in its own way:

- SeaEscape, out of money, stopped sailing in August 2008. See Jaclyn Giovis, *SeaEscape Plans to Depart: Company Expected to Leave Port Everglades After 21 Years*, S. FLA. SUN-SENTINEL, Aug. 12, 2008, at 1D. As it scrambled to find fresh financing, its crew, which had not been paid in months, decided to take action and had the ship (*Island Adventure*) arrested. See Jaclyn Giovis, *U.S. Can Seize Gambling Ship: Court Rules in Favor of Unpaid Crew Members*, S. FLA. SUN-SENTINEL, Aug. 23, 2008, at 1D. This made it impossible for the company to attract new investors and led to a judicial auctioning of the ship in October 2008. Glenn Straub, an eccentric Palm Beach businessman, won the bidding by agreeing to pay \$3.6 million; afterwards, he told reporters he planned to steer the vessel “away from its gambling past and position it . . . as an entertainment venue.” See Jaclyn Giovis, *Handshake Deal for Casino Ship Can't Be Finalized: SeaEscape Will Remain with the Auction's High Bidder and Not Be Resold to the Runner-Up*, S. FLA. SUN-SENTINEL, Oct. 23, 2008, at 1D. When nothing came of this idea (or another one to turn the vessel into a floating hospital), the ship was scrapped in 2011. See *Ship Demolition Report*, SHIP SCRAPPING (Dec. 13, 2011), <<http://merseyshipping.blogspot.com/2011/12/ship-demolitions-as-of-13122011.html>>.
- Oceans Casino Cruises, the parent company of SunCruz, filed for liquidation in December 2009. See *supra* note 7. At the time of its demise, it had three locations: Jacksonville (*Suncruz VII*), Myrtle Beach (*Suncruz VIII*), and Port Canaveral (*Suncruz XII*). The *Suncruz VII* became a Savannah gambling ship (*Diamond Royale*), failed as such, was abandoned, and in 2014 was sold at auction for \$100,000 to a man looking for a houseboat. See Tyrone Richardson, *Abandoned Casino Ship Sells for \$100,000*, POST AND COURIER (Charleston, SC), Apr. 3, 2014, available at <http://www.postandcourier.com/business/abandoned-casino-ship-sells-for/article_dcdce1d2-59e1-5598-ace2-eeal73e9e185.html>. The *Suncruz VIII* became the New York City excursion boat *Hornblower Infinity*. See <http://www.st.nmfs.noaa.gov/pls/webpls/cgv_pkg.vessel_id_list?vessel_id_in=977138> and https://www.hornblower.com/port/yacht/ny_+41%3Bjsessionid=62B5963996621295E01C9C821B69EA97>. Lastly, the *Suncruz XII* is still in Port Canaveral, where she is sailing as the gambling ship *Victory I*. See *infra* notes 62–67 and accompanying text.
- Palm Beach Princess filed for bankruptcy on Christmas Eve 2009. See Paul Quinlan and Jane Musgrave, *Princess Back*

in Rough Waters: Palm Beach Princess Lists in Bankruptcy Court, PALM BEACH POST, Dec. 25, 2009, at 1C. In April 2010, its eponymous ship, ordered by a judge to vacate its berth at the Port of Palm Beach, sailed to Freeport. See Christine Stapleton, *Palm Beach Princess, Bankrupt and Listing, Limping Out of Port for Last Time*, PALM BEACH POST, Apr. 8, 2010, at 1A. There, it waited while its owners tried to find work for it as temporary housing. See Ana M. Valdes, “Princess” Facing 1 of 2 Fates: Relief Mission or Scrap Heap, PALM BEACH POST, Aug. 7, 2010, at 2B. When no takers could be found, the ship was scrapped in 2011. See *Palm Beach Princess*, WIKIPEDIA: THE FREE ENCYCLOPEDIA, <https://en.wikipedia.org/wiki/Palm_Beach_Princess>.

- Discovery Cruise Line had the most orderly wind-down, announcing in July 2011 that it planned to stop sailing after Labor Day. See Arlene Satchell, *Discovery Cruise Line to End Service Sept. 6; Day-Trip Operator Cites High Operating Costs, Lack of Profitability*, S. FLA. SUN-SENTINEL, July 28, 2011, at 1D. Although attempts were made to find a buyer for its ship (*Discovery Sun*), nothing materialized and the vessel was scrapped in 2012. See *Ship Demolition Report*, SHIP SCRAPPING, Feb. 13, 2012, <<http://merseyshipping.blogspot.com/2012/02/ship-demolition-report-1322012.html>>.

Ironically, early in their quest for a compact the Seminoles insisted that the state's failure to take action against the CTN industry meant it had implicitly authorized tribal gaming. See *Seminole Tribe of Fla. v. State of Fla.*, 1993 WL 475999, at *13–*14 (S.D. Fla. 1993) (rejecting the argument).

¹⁶Environmental activists, led by the Surfrider Foundation, had campaigned vigorously for such legislation. See, e.g., Jeff Schweers, *Surfers Heckle Gambling Ship*, FLA. TODAY (Melbourne), Sept. 24, 2007, at B1; Dianna Cahn, *Protest's Focus: Gaming-Ship Waste—Activists Want Halt to Dumping Near Shore*, S. FLA. SUN-SENTINEL, Jan. 28, 2007, at 3B. See also Scott Blake, *Allen Wants Ships to Stop Offshore Dumping*, FLA. TODAY (Melbourne), July 22, 2005, at A1.

¹⁷See Robert M. Jarvis, *2007–2008 Survey of Florida Gambling Law*, 33 NOVA L. REV. 231, 238–40 (2008) (discussing the “Gambling Vessels/Clean Ocean Act,” now codified at FLA. STAT. § 376.25). The Florida Department of Environmental Protection (DEP) maintains a detailed web page about the statute. See *DEP's Gambling Vessel Registration Program*, <<http://www.dep.state.fl.us/water/wastewater/gamb-vessel.htm>> [hereinafter DEP Registration Program]. See also E-mail from Sherry Bowersox, P.E., Wastewater to Wetlands Coordinator, Domestic Wastewater Program, Florida Department of Environmental Protection, to the author, dated Dec. 22, 2016, at 12:29 p.m. (copy on file with the author) (explaining that two of Florida's three remaining gambling ships pump out in port while the third has an approved on-board system).

which already was in the doldrums, completely collapsed.¹⁸

It is an open question whether Florida's CTN industry would have survived if one or more of these calamities had not occurred. Even under the best of circumstances, running a CTN operation is difficult and expensive.¹⁹

¹⁸See, e.g., Florida TaxWatch, *The Current Recession in Florida: Comparative Information and Data on the Worst Economic Downturn Since the 1930s*, FLORIDATAXWATCH.ORG (Aug. 2009), <<http://www.floridatxwatch.org/resources/pdf/eco32.pdf>> (pointing out that a) Florida's economy had begun declining nine months before the rest of the country, and b) the Great Recession's toll in Florida was 250% more severe than in other states).

¹⁹Florida's CTN industry has never operated "under the best of circumstances." Almost from the beginning, Florida Attorney General Bob Butterworth engaged in an all-out war against the industry. See, e.g., *Butterworth v. Chances Casino Cruises, Inc.*, 1997 WL 1068628 (M.D. Fla. 1997) (attempt to have the *Royal Princess* declared a public nuisance); *State, Bd. of Trustees v. Day Cruise Ass'n, Inc.*, 794 So. 2d 696 (Fla. Dist. Ct. App.), *rehearing denied*, 798 So. 2d 847 (Fla. Dist. Ct. App. 2001), *review denied*, 823 So. 2d 123 (Fla. 2002) (attempt to keep CTN operators from anchoring in state waters); *Butterworth v. Tropic Casino Cruises, Inc.*, 796 So. 2d 1283 (Fla. Dist. Ct. App. 2001) (attempt to close down SunCruz using a questionable interpretation of the state's gambling laws); *Butterworth Targets Gambling Cruises*, STUART NEWS, Feb. 4, 2000, at B6; Kevin Metz, *Butterworth Targets Gambling Ships*, TAMPA TRIB., July 5, 1996, at 6; Florida Cabinet, *Meeting Transcript*, at 99–123 (Sept. 10, 1996), available at <<http://www.myflorida.com/myflorida/cabinet/agenda96/0910/trans.html>> (extensive criticism by Butterworth of the CTN industry). See also *infra* notes 25–26 and accompanying text (attempt to drive up operators' costs by increasing their required sailing distances).

In addition to the industry and its allies (mainly labor unions, port authorities, and shipyards), Butterworth's efforts received strong pushback from many of the state's senior citizens:

Gov. Lawton Chiles and the Florida Cabinet wanted to ban the boats but concluded last month that a federal law would prevent that. Instead, they urged the Legislature to declare the boats illegal.

But efforts by the Legislature—led by Rep. Jim King, a Republican from Jacksonville—to take such action failed last year, when lawmakers were swamped with letters and postcards. Many of the postcards originated in Dade and Broward, including one from a condominium association at Century Village in Deerfield Beach which stated a ban on day cruises would have a "devastating" effect on the lives of senior citizens and be "disastrous" to Florida's economy. . . .

On a recent Wednesday, the SunCruz Casino's daytime cruise was packed, mostly with retirees. Ronnie Greenhut of Plantation, who says she loses \$500 on each of her twice-weekly visits to the SunCruz, was among them.

A card-carrying VIP member of SunCruz, Greenhut said she was unhappy at the Legislature's efforts to ban casino ships.

First, casino boats, although typically thought of as casinos that happen to be on vessels, actually are vessels that happen to have casinos.²⁰ Thus, in addition to gaming experience, operators need maritime experience to be able to handle, *inter alia*, allisions, collisions, fires, explosions, medical emergencies, overboards, sinkings, and strandings.²¹

"I think it's terrible. What else is there left for people to do?"

Eileen Galaton of Coral Springs and Tobye Saltzman of Sunrise, ready for an afternoon aboard the SunCruz, also decried the Legislature's plan.

Saltzman, whose last visit to the SunCruz was Aug. 14, said "it would break my little old heart" if the Legislature banned the ships.

Galaton, who also plays bingo at the Seminole reservation near Hollywood, had this message for the Legislature: "Tell them to butt out."

Julie Kay, *High Rollers Head for the High Seas*, MIAMI HERALD, Sept. 29, 1996, at 10SE. See also Steve Bousquet, *Casino Ships Win a Hand in Capitol*, MIAMI HERALD, Mar. 22, 1996, at 2BR ("The [Regulated Industries' lottery and gaming] subcommittee chairman, Rep. Ben Graber, D-Coral Springs, said he recently spoke to about 300 members of a women's club at Ramblewood East condominiums in Pompano Beach. When he asked for a show of hands for support of cruises to nowhere, Graber said, 'I'd say 295 hands went up.'").

²⁰See Scott Blake, *Gambling with Passenger Safety*, FLA. TODAY (Melbourne), Nov. 28, 2004, at 1 (quoting U.S. Coast Guard Marine Safety Officer Lt. Patrick Eiland).

²¹See, e.g., National Transportation Safety Board (NTSB), *Marine Accident Report NTSB/MAR-06/02*, NTSB.gov (Apr. 4, 2006) ("Fire On Board U.S. Small Passenger Vessel Express Shuttle II, Pithlachascotee River, Near Port Richey, Florida, October 17, 2004"), available at <<http://www.nts.gov/investigations/accidentreports/reports/mar0602.pdf>>; Mary Kelli Palka, *Coast Guard Rescues 5 Men from Disabled Gambling Ship*, FLA. TIMES-UNION (Jacksonville), Mar. 9, 2008, at B1 (*Suncruz IX*); Trenton Daniel, *Casino Boat: Search for Missing Crewman Called Off*, MIAMI HERALD, Nov. 15, 2007, at B1 (*SeaEscape* overboard assistant cook); Caren Burmeister, *Suncruz Rescues OK, Coast Guard Says*, FLA. TIMES-UNION (Jacksonville), Oct. 12, 2005, at L1 (overboard passenger); Adam Emerson, *Ocean Jewel's Shuttle Bumps Bridge*, TAMPA TRIB., Apr. 25, 2005, at 4 (Metro); Vicky Agnew et al., *Fire Ends Gambling Ship Trip; SunCruz Patrons Startled, but Safe*, S. FLA. SUN-SENTINEL, May 17, 2004, at 1A; Richard Raeke, *Passengers Save Boat Captain's Life*, ST. PETERSBURG TIMES, Apr. 13, 2004, at 1 (Pasco Times) (SunCruz tender captain—heart attack); Andrew Marra, *Officials Say Man Jumped Off Ship*, PALM BEACH POST, Mar. 24, 2004, at B1 (overboard *Palm Beach Princess* passenger); Hannah Simpson, *Ship Fire Cancels Cruise of SeaEscape*, MIAMI HERALD, Apr. 15, 2003, at 6B; Ray Martinez, *El Dorado Gambling Ship to Sail Again*, STUART NEWS, Nov. 27, 1999, at B1 ("After running aground earlier this week, the gambling ship El Dorado was cleared Friday to sail again, the Coast Guard reported. An underwater survey found no damage to the 140-foot cruise ship. . . ."); *Gamblers Stranded at Sea When Ship Malfunctions*, ST. PETERSBURG TIMES, Oct. 24, 1998, at 8B (*Casino Princess*—

Second, because of federal gambling laws, casino boats can only open their casinos once they reach “international waters.”²² On Florida’s east coast, this means transporting players at least three miles offshore.²³ This number increases (due to the state’s marine topography) to nine miles on Florida’s west coast.²⁴ In 1997, relying on a recently passed federal anti-terrorism law, Florida Attorney General Bob Butterworth attempted to impose a 12-mile requirement on both coasts.²⁵

He dropped the idea, however, after a similar effort by New York City officials was quashed by the courts.²⁶

Third, due to federal immigration laws, casino boats must be flagged American and employ American crews.²⁷ They also must comply with stringent U.S. Coast Guard safety regulations.²⁸ In addition, like other vessels, casino boats must be licensed,²⁹ insured,³⁰ and put on a regular maintenance schedule.³¹

(footnote 21 continued) loss of steering power); Geoff Dutton, *Casino Ship Weathers Complaints*, DAYTONA NEWS-J., Nov. 24, 1997, at 1A (“[R]eacting to situations such as [a passenger’s] cardiac symptoms can be difficult, [SunCruz General Manager Phil] Nolan said . . . ‘Without having a certified doctor aboard, there’s not a whole lot we can do,’ Nolan said. As a result, ‘we’ve turned the boat around quite a few times.’ It can be a costly decision, but Nolan said it’s an accepted part of the business. When cruises are cut short by a medical emergency, passengers sometimes are reimbursed and other times the boat returns to sea after unloading the sick passenger.”); Arline Giolli, *Gambling to Blame for Ship That Went Bump in the Night*, ST. PETERSBURG TIMES, Mar. 5, 1996, at 2 (Seminole Times) (letter to the editor regarding an allision between the *Crown Empress* and the Clearwater Pass Bridge). See also *infra* note 35 (sinking, with loss of life, due to a hurricane).

Of course, land-based mishaps also occur. See, e.g., J.D. Gallop, *Gamblers Run into Bad Luck*, FLA. TODAY (Melbourne), Aug. 23, 2006, at 1B (breakdown of shuttle bus transporting players to the *Ambassador II*).

²²See Robert M. Jarvis, Note, *Gambling Ships: A Vessel Sailing from the United States Cannot Legally Open Its Casino Until It Reaches the High Seas*, 44 J. MAR. L. AND COM. 339 (2013). In 1998, Florida Attorney General Bob Butterworth filed complaints against multiple Florida CTN operators, alleging that they were opening their casinos prematurely. See Scott Hiaasen, *6 Casino Ships Accused of Allowing Illegal Gambling in State Waters*, PALM BEACH POST, Dec. 2, 1998, at A1. The charges later were settled. See Johnny Diaz, *Gambling Ship Operators Pay Fine, Agree to Revise Operations*, MIAMI HERALD, Aug. 18, 1999, at 7B.

²³See *United States v. Florida*, 425 U.S. 791 (1976). See also Robert M. Jarvis, *Territorial Waters: Florida’s Eastern Coastal Boundary is the Greater of the Edge of the Gulf Stream or Three Geographic Miles*, 34 J. MAR. L. AND COM. 351, 353 (2003).

²⁴See *United States v. Florida*, 363 U.S. 121 (1960).

²⁵See Tyler Bridges, *Giving Gambling Ships a Push: Operators Fear Losses if 12-Mile Limit is Imposed*, MIAMI HERALD, Oct. 22, 1997, at 5B.

²⁶See Lane Kelley, *Gambling Ships Get Three-Mile Limit*, S. FLA. SUN-SENTINEL, Dec. 9, 1997, at 8D, reporting on *United States v. One Big Six Wheel*, 987 F. Supp. 169 (E.D.N.Y. 1997), *aff’d*, *One Big Six Wheel*, *supra* note 4, analyzed in Robert M. Jarvis, Note, *Gambling Ships: The Antiterrorism and Effective Death Penalty Act of 1996 Does Not Extend the Territorial Sea of the United States for Purposes of the Gambling Ship Act*, 29 J. MAR. L. AND COM. 449 (1998).

²⁷This was not always true. As a result, several by-gone Florida gambling ships (such as *SeaEscape’s Island Adventure*) were

flagged and crewed foreign to save money. However, as a result of *Bimini Superfast Operations LLC v. Winkowski*, 994 F. Supp. 2d 106 (D.D.C. 2014) (relying on *M/V Southern Elegance*, INS Gen. Counsel Op. 91-4 (Jan. 11, 1991), available at 1991 WL 1185115), there now is no question that a foreign vessel cannot engage in CTN. See further Johanna Jainchill, *Customs Says “Cruises to Nowhere” Were Never Legal*, TRAVEL WKLY. (June 21, 2015), <<http://www.travelweekly.com/Cruise-Travel/Customs-says-cruises-to-nowhere-were-never-legal>>; Tom Stieghorst, “*Cruises to Nowhere*” to End in 2016, USA TODAY (June 12, 2015), <<http://www.usatoday.com/story/cruiselog/2015/06/12/cruises-to-nowhere-to-end-in-2016/71124092/>>.

²⁸Failure to do so risks a loss of sailing privileges. See, e.g., Drew Dixon, *Offshore Casino Temporarily Closed; Coast Guard Finds ‘Safety Deficiencies’ on Mayport-based Gambling Ship*, FLA. TIMES-UNION (Jacksonville), May 26, 2015, at B3 (*Victory II*); Paul Quinlan, *Coast Guard Sidelines Gambling Ship Over Engine Repair*, PALM BEACH POST, Dec. 9, 2009, at 1A (*Palm Beach Princess*); Scott Blake and Kaustuv Basu, *Gambling Ship Fails Another Inspection*, FLA. TODAY (Melbourne), Sept. 20, 2007 at 1C (*Ambassador II*); Willoughby Mariano, *Safety Problems Strand 2 Gambling Ships in Port*, ORLANDO SENTINEL, Aug. 15, 2007, at B4 (*Ambassador II* and *Suncruz XII*); Steve Huettel, *Casino Ship Hits Inspection Snag*, ST. PETERSBURG TIMES, Aug. 22, 2006, at 1D (*Casino Royale*); Kevin Deutsch, *Big Easy Casino Ship Loses Certification, Stops Operating*, PALM BEACH POST, Feb. 4, 2006, at 3B; *Coast Guard Inspectors Shut Down SunCruz*, FLA. TODAY (Melbourne), Aug. 10, 2004, at 1 (Local) (*Suncruz VII*).

²⁹See, e.g., *State v. Eftimiadis*, 690 So. 2d 1320 (Fla. Dist. Ct. App. 1997) (*Vegas Express*—lack of boating decal); *Gambling Ship Ready to Set Sail in July*, INDEX-J. (Greenwood, SC), May 24, 1998, at 5A (*Southern Elegance*—approval of liquor license application); Susannah A. Nesmith, *State Closes Kitchen on Gambling Ship*, PALM BEACH POST, Sept. 25, 1997, at 1B (*Midnight Gambler*—lack of food preparation license).

³⁰For a sampling of casino boat insurance disputes, see *Florida Day Cruises, Inc. v. Insurance Co. of N. Am.*, 2003 WL 22100691 (S.D.N.Y. 2003) (allision); *In re Ocean Dev. 1, LLC*, 2012 WL 2050744 (Bankr. S.D. Fla. 2012) (hull damage); *In re SunCruz Casinos LLC*, 342 B.R. 370 (Bankr. S.D. Fla. 2006) (set-offs).

³¹Although minor repairs can be done between (or sometimes even during) cruises, more substantial ones require the ship to be taken out of service. See, e.g., Wayne T. Price, *Casino Ship Returns to Action at Port Canaveral*, FLA. TODAY (Melbourne), Oct. 22, 2009, at 6C (“After a nearly month-long hiatus, gambling begins again today at Port Canaveral when

Fourth, casino boats must make suitable docking arrangements.³² In addition to having to follow any applicable ordinances,³³ doing so may necessitate the hiring of longshoremen, pilots, and other personnel not needed at land-based casinos.³⁴

Fifth, casino boats always are at the mercy of the weather.³⁵ On some days, rough seas make sailing

impossible.³⁶ On other days, conditions discourage all but the most intrepid players.³⁷ Even in good weather, a fear of becoming seasick keeps some customers home.³⁸

Sixth, in contrast to a land-based casino, the very nature of a CTN means that players cannot "come and go as they please." Instead, they must commit

(footnote 31 continued) SunCruz Casinos sails its [*Suncruz XII*]. The gambling ship went into dry-dock on Sept. 28 for improvements and upgrades in Jacksonville."); Scott Blake, *Casino Ship Out for Repairs*, FLA. TODAY (Melbourne), Nov. 29, 2007, at 1A (*Ambassador II*—engine overhaul); Mary Shedden, *Casino Royale Ship Heads to Bahamas for Fixes*, TAMPA TRIB., Jan. 17, 2007, at 1 (Bus.).

³²See, e.g., Joe Capozzi, *Riviera Casino Ship Moving South*, PALM BEACH POST, June 29, 1995, at 1B ("A casino-gambling cruise ship that has a lease to operate out of the city marina will instead sail from the Port of Palm Beach for at least its first three months while the water around the marina is dredged. ... Club Royale had to seek relief from the port after running aground on the sandy bottom of a channel near the marina Tuesday night during a test run to see whether the waters around the marina could accommodate the 224-foot passenger ship.")

³³See, e.g., Sun Cruz Casinos, L.L.C. v. City of Hollywood, Fla., 844 So. 2d 681 (Fla. Dist. Ct. App. 2003) (city challenge to restaurant's decision to allow casino boats to use its dock); Christopher F. Aguilar, *Gambling Ships Hit Choppy Water*, FLA. TIMES-UNION (Jacksonville), Jan. 29, 2005, at L1 (casino boats ordered away from dock due to state's submerged land lease); Sarah Prohaska, *Lady Luck Hopes to Improve Its Own with Parking*, PALM BEACH POST, July 1, 2004, at 1B; *Gambling Boats Lead to Conflict in Port Richey*, ST. PETERSBURG TIMES, May 20, 2002, at 2 (Pasco Times) (recalling past disputes between casino boats and the city over customer parking, permits, and port charges); Beau Halton, *City Deals Casino Ship Warning; No Permits, Officials Say*, FLA. TIMES-UNION (Jacksonville), Jan. 6, 2001, at 1 (Metro) (*Suncruz VII*—alleged violation of six city zoning laws); Cathy Vaughn, *Lack of License Anchors Gaming Ship*, DAYTONA NEWS-J., Mar. 19, 1997, at 1A (*Fantasea*—improper signage and lack of occupational license).

³⁴See, e.g., Pennington-Gray, *supra* note 3, at 296 (reporting that in 2002 CTN operators paid \$4 million in stevedoring and line handling charges).

³⁵See, e.g., Ardy Friedberg, *Rough Seas, Wind Bedevil Boaters: Gusts, Debris Bring Hazards, Divert 700-Passenger Casino Ship's Docking*, S. FLA. SUN-SENTINEL, Feb. 16, 1998, at 1B ("Because of high winds, the 137-foot SunCruz Casino gambling ship, SunCruz VI, was unable to dock at its regular pier at about 5:30 p.m. on Sunday, then hit a dock about a half-mile south of Dania Beach Boulevard. The ship, reportedly carrying about 700 people, [suffered only] minor damage, but the passengers were forced to disembark by a ladder.")

In August 1995, the Palm Beach casino boat *Club Royale* sank while trying to outrun Hurricane Erin, resulting in three deaths. See Woods v. Estate of Woods, 681 So. 2d 903 (Fla. Dist. Ct. App. 1996). See also Joe Capozzi et al., *Owners Still Dream of 'Floating Las Vegas'*, PALM BEACH POST, Aug. 14, 1995, at 1A (explaining that the ship was sailing with a skeleton crew, was not carrying any passengers, Graeme

Woods was the company's vice president, and the other two fatalities were the ship's captain and cook).

³⁶In Dave Barry's 2002 novel *Tricky Business*, a Miami gambling ship (*Extravaganza of the Seas*) refuses to stay in port even though Tropical Storm Hector is bearing down on South Florida. Eventually, readers learn why: a planned rendezvous with a Bahamian drug boat cannot be rescheduled. See further John Leland, *Loose Lips Sink Cruise Ships: Dave Barry's Second Novel Features Murderous Gangsters and a Classic-Rock Cover Band*, N.Y. TIMES, Oct. 6, 2002, at F21.

³⁷Due to seven-foot seas, SunCruz once prevented three blind women from sailing. According to the company, the waves "would have made it difficult for the women to move around the ship safely." In response, the women filed a discrimination complaint with state officials and told reporters, "[T]he decision to board the ship was [ours] to make, not the captain's. 'We sat there and listened to (the ship's attendant) tell other people that the seas were high but to have a good time,' said [Denyce] Roberts, 38. 'We expected the same type of courtesy.'" Janel Stephens, *Blind Women Not Allowed on Gambling Boat*, ST. PETERSBURG TIMES, Apr. 9, 2003, at 12 (Neighborhood).

³⁸See Andrew Brainard and Chip Gresham, *Motion Sickness: Background, Pathophysiology, Prevalence*, MEDSCAPE (Mar. 23, 2016), <<http://emedicine.medscape.com/article/2060606-overview>> ("Nearly all people experience motion sickness if given a strong[-]enough motion stimuli. In many typical conditions, such as on cruise ships, the prevalence ranges from 3–60%, depending on the study.")

Because of the small size of most casino boats, as well as their lack of stabilizers (a standard feature on multi-day cruise ships), a bout of seasickness is almost inevitable:

Having made the mistake of trying to "tough it out" on my first gambling ship excursion, I arrived at the SunCruz Casino with my own personal supply of motion-sickness pills.

On arrival at the ticket booth, I found a sign advising of similar medication available on board. Almost as soon as he started tickling the ivories, [piano player Jim] Nelson warned everybody to take advantage of the motion-sickness pills. Then, moments later, the captain greeted passengers with yet-another pill advisory.

Despite all that, and seas calm enough on which to water-ski, a healthy number of those on board ended up in the ranks of the pale-and-puking.

Once again, ship personnel went out of their way to tend to those who lost at a different type of gamble. One bartender bolted from her post to offer a soft drink and snack to a one woman whose sweaty forehead belied her claims of feeling fine.

On the half-hour cruise back into port, a strange sense of satisfaction crept over me. While I had lost money, I

to a specific amount of time (the usual CTN lasts 4–6 hours, with 2–4 hours available for gambling), even if they lose all of their money early in the cruise.³⁹ They also must be sure to be at the pier anywhere from 15 to 30 minutes prior to sailing—a player who is late risks missing the cruise altogether.⁴⁰

(footnote 38 continued) had maintained my dignity and my digestion.

Two out of three ain't bad.

Jon Rabiroff, *Trip Can Be Fun for Those Who Can Stomach It: Temptations Abound for the Unwary Gambler*, DAYTONA NEWS-J., May 25, 1997, at 11A.

³⁹These facts nettle both serious and casual players:

Moe Noonan, 83-year-old Hollywood resident and hardcore gambler, boards a gaming ship five days a week for the pleasure of sitting at a blackjack table for a few hours.

Noonan, though, hates taking an hour-long boat trip to international waters before he's able to gamble.

"It's a pain," he barked the other day before sailing on the St. Tropez in Port Everglades. "At least at a casino, after two hours I can go. I can't drive home from the boat. I've got to stay there."

Gambling boats could be big losers if residents in Miami-Dade and Broward vote March 8 in favor of permitting slot machines at seven racetracks and jai-alai frontons.

Noonan says he's voting for it. The gambling cruise is a five-hour or more commitment. At a racetrack or fronton, he could come and go as he pleases. . . .

Slots player Audrey Carey of Margate said being able to play at pari-mutuels would affect the number of trips she takes on the gaming boats.

"Instead of coming here five times a year, I'd come maybe twice," Carey said.

Troubled Waters, *supra* note 10. See also Patrick Danner, *Cruising into Oblivion*, MIAMI HERALD, Aug. 12, 2008, at 1C ("The gaming-boat business was always somewhat handicapped," [marina executive Robert] Christoph [Sr.] said. Passengers must spend four or five hours on a boat, a curse for someone who has been unlucky. By the same token, Christoph noted, a passenger with a hot hand has to stop playing once the boat returns to state territorial waters."); Joe Bob Briggs, *Vegas Guy: La Cruise Casino*, UPI (Oct. 29, 2002), available at <<http://www.upi.com/Vegas-Guy-La-Cruise-Casino/41051035912120/>> (quoting La Cruise Casino General Manager Ken Morriss as saying, "Of course, people always ask us: 'do we really get the same odds that we would in Las Vegas on this unregulated [Jacksonville gambling] ship?' And yes, you do. All the games and percentages are the same. It sometimes FEELS different because the actual gaming time is only three and a half hours per cruise. The percentage on slots is generated over a million pulls—but our machines only work 7 hours a day. So it can be dangerous for us. We might have to close when losing. And the customer might have to disembark when losing.") (emphasis in original).

The captive nature of CTN has led one way to update Chaucer's *The Canterbury Tales*. As his book's forward explains: "Cruise to Nowhere Tales is a modern version of *The Canterbury Tales*. It consists of a series of tales told by a group of tourists on a cruise to nowhere while they wait for their

Seventh, while land-based casinos never get so full that they have to turn players away (due to the fact that patrons always are entering and exiting), every casino boat has a maximum carrying capacity that it is not permitted to exceed.⁴¹

Eighth, while casino boats, like all businesses, are subject to lawsuits by customers,⁴² employees,⁴³

friends and lovers to finish gambling on the deck below. Each prologue and tale is an adaption of its counterpart in *The Canterbury Tales*, told in the same verse form and with similar characters and plot elements." NICHOLAS GORDON, *CRUISE TO NOWHERE TALES* vii (2010).

⁴⁰Players miss cruises all the time for all sorts of mundane reasons, such as getting the boat's departure time wrong, being held up in traffic on their way to the port, or forgetting to bring proper identification. However, I once was told the following story by a gambling ship's lawyer who had witnessed the event:

As a courtesy, we allow passengers to scatter their loved ones' ashes when the ship is in international waters. One night, a woman arrived at check-in carrying an urn containing her husband's remains. Because she had not made arrangements in advance, as we require, she was told she could not do the scattering on that night's cruise and would have to leave the urn in her car. Because the ship was about to sail, she asked if it would wait for her while she went back to her vehicle. Told that it could not, she hesitated for a moment and then threw the urn into a nearby trash can so that she could board.

(Names, dates, and other identifying information omitted at the lawyer's request.)

⁴¹See, e.g., *Guard Grounds Gambling Boat*, ORLANDO SENTINEL, July 18, 2004, at B3 ("The Sterling Casino Lines Ambassador II was barred from sailing out of Port Canaveral Friday by the U.S. Coast Guard, which said it found numerous safety violations aboard the gambling ship. Coast Guard officers found the number of passengers exceeded the ship's limit of 1,800, officials said. Investigators said they also found other violations involving safety training requirements, watertight doors and certification for crew members.").

⁴²See, e.g., *Clay v. Oceans Casino Cruises, Inc.*, 2008 WL 4571825 (S.D. Fla. 2008) (slip-and-fall injury); *Association for Disabled Americans, Inc. v. Concorde Gaming Corp.*, 158 F. Supp. 2d 1353 (S.D. Fla. 2001) (wheelchair-bound patrons complained that the craps tables on the *Casino Princesa* were too high for them to reach); Robert M. Jarvis, *Casino Boats and Dram Shop Act Liability*, 10 GAMING L. REV. 247 (2006).

Because of the ocean's constant motion, casino boats are particularly vulnerable to sham slip-and-fall lawsuits by players looking to recoup their gambling losses. See Dale K. DuPont, *Rolling the Dice ... on Gambling Boats*, MIAMI HERALD, Feb. 3, 1997, at 22BM. See also Robert M. Jarvis, *Gambling Debts at Sea*, 39 J. MAR. L. AND COM. 505 (2008) (pointing out that casino boats do not have the same collection tools as land-based casinos).

⁴³See, e.g., *Noell v. Suncruz Casinos*, 2009 WL 541329 (M.D. Fla. 2009) (WARN Act class action); *Bose v. Oceans Casino Cruises, Inc.*, 2006 WL 3507950 (M.D. Fla. 2006) (*Suncruz XII*—race and national origin discrimination claim by discharged captain); *Miller v. Paradise of Port Richey, Inc.*, 75 F. Supp. 2d 1342 (M.D. Fla. 1999) (retaliation claim); *In re Suncruz Casinos, LLC*, 377 B.R. 741 (Bankr. S.D. Fla. 2007) (*Suncruz VIII*—seaman injured in elevator accident).

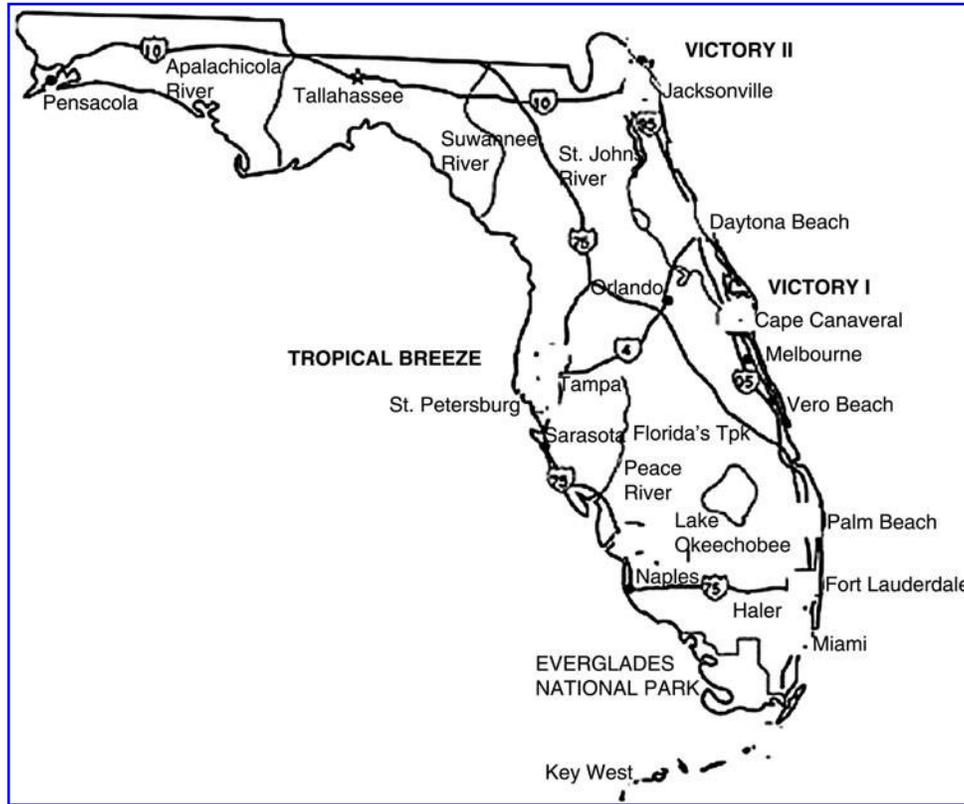


FIG. 1. Locations of Florida's Cruises-to-Nowhere (as of Jan. 1, 2017).

vendors,⁴⁴ and competitors,⁴⁵ they also regularly find themselves grappling with legal issues that are both novel and complex.⁴⁶

Lastly, as everyone knows, “a boat is a hole in the water that you throw money into” and the word

“boat” means “bring out another thousand.”⁴⁷ Casino boats fully live up to these adages:

A bankruptcy judge cleared the way Wednesday for a California investment group to buy

(footnote 43 continued) As maritime employers, CTN have special responsibilities to their employees who are seamen. In 2003, for example, a SeaEscape waiter named Sami Barrak was shot and paralyzed outside a strip club. Although the club was held liable, the ship was required to pay \$1.2 million for Barrak’s medical care due to an ancient admiralty doctrine known as “maintenance and cure.” See Mike Clary, *Ex-Waiter Wins \$26 Million Settlement—And New Hope*, S. FLA. SUN-SENTINEL, Dec. 13, 2007, at 1B.

⁴⁴See, e.g., *American V Ships Ltd., LLC v. Norica Eng’g Servs.*, 34 F. App’x 151 (5th Cir. 2002) (suit by company that provided slot machines to casino boat); Tom Stieghorst, *Lien Scuttles Day Cruises; 2 SeaEscape Sailings Canceled*, S. FLA. SUN-SENTINEL, Mar. 26, 2003, at 1D (unpaid repair bills).

⁴⁵See, e.g., *Carnival Corp. v. SeaEscape Casino Cruises, Inc.*, 74 F. Supp. 2d 1261 (S.D. Fla. 1999) (SeaEscape’s “Ship Full of Fun!” slogan did not infringe Carnival’s “Fun Ship” mark); *Aztar Corp. v. NY Entertainment, LLC*, 15 F. Supp. 2d 252 (E.D.N.Y. 1998), *aff’d mem.*, 210 F.3d 354 (2d Cir. 2000) (Florida/New York gambling ship’s use of the name “Tropicana” infringed rights of land-based casino).

⁴⁶See, e.g., *Canaveral Port Auth. v. M/V Liquid Vegas*, IMO No. 8222941, 2009 WL 3347596 (M.D. Fla. 2009) (CTN—ap-

plicability of maritime arrest procedures to vessel’s slot machines); *In re Las Vegas Casino Lines, LLC*, 454 B.R. 223 (Bankr. M.D. Fla. 2011) (CTN—applicability of Florida’s civil theft statute); *In re Titan Cruise Lines*, 353 B.R. 919 (Bankr. M.D. Fla. 2006) (CTN—applicability of Florida’s fraudulent check laws).

For many years, one of the most hotly-debated issues concerned the applicability of Florida’s sales and use taxes to CTN: “The Florida Department of Revenue and the cruises to nowhere industry have met in court several times over the years. The cruises to nowhere industry argues that it is engaged in foreign commerce and thus exempt from state sales and use tax under s. 212.08, Florida Statutes, while the department contends that cruises to nowhere are engaged in intrastate commerce and therefore subject to tax.” Florida Senate 2003 Report, *supra* note 4, at 3. In *Florida Dep’t of Rev. v. New Sea Escape Cruises, Ltd.*, 894 So. 2d 954 (Fla. 2005), the Court ruled the ships had to pay, but only on transactions occurring in state waters.

⁴⁷See, e.g., JONATHAN WALDMAN, RUST: THE LONGEST WAR xiii (2015) (“They say a lot of things about boats. They say a boat is a hole in the water that you throw money into. They say boat stands for ‘bring out another thousand.’ They say that the pleasures of owning and sailing a boat are comparable to

the Ocean Jewel of St. Petersburg and refurbish the ship to resume offshore gambling.

Attorneys for defunct Titan Cruise Lines and its largest creditor told bankruptcy Judge Alexander Paskay that Yamashiro Financial Services planned to keep the ship in the Tampa Bay area. . . .

Owned by a group of Illinois businessmen, Titan burned through about \$90-million during its three-year history, said Dennis Shepard, an outsider brought in to run the company in the past months.

More than 300 investors from the Chicago area lost a total of \$40-million to \$50-million, he said.

First American, a suburban Chicago community bank that financed the startup cruise company, was the biggest loser. The bank is

owed \$20-million and will recoup \$3-million to \$4-million from the ship sale, said First American attorney Ron Peterson.⁴⁸

III. SURVIVORS

Florida's last three casino boats are located, respectively, in Jacksonville,⁴⁹ Port Canaveral (55 miles east of Orlando), and Port Richey (40 miles north of Tampa) (*see* Fig. 1). Reflecting the old real estate adage, "location, location, location," these sites boast two important advantages. First, they are all densely populated.⁵⁰ Second, each is in a part of Florida that has few other gambling options.⁵¹

In North Florida, part of the country's Bible Belt, gambling is vigorously opposed on religious grounds.⁵²

(footnote 47 continued) standing, fully clothed, in a cold shower while tearing up twenty-dollar bills. Consequently, they say that the best day of a sailor's life, aside from the day he buys a boat, is the day he sells it.")

⁴⁸Steve Huettel, *Judge Okays Casino Boat Deal*, ST. PETERSBURG TIMES, Jan. 12, 2006, at 1D.

⁴⁹Because of its history, this location also is referred to as "Mayport." On May 1, 1562, Admiral Jean Ribault of France discovered a body of water (the present-day St. Johns River) and dubbed it "Riviere de Mai" (May River). The spot where he came ashore grew into the village of Mayport. *See* KEVIN M. MCCARTHY, ST. JOHNS RIVER GUIDEBOOK 129-42 (2d ed. 2008). McCarthy includes a helpful map to orient readers. *See id.* at 131.

⁵⁰If one were to draw 25-mile circles around them, the resulting population figures would be: Jacksonville—1 million, Port Canaveral—2.5 million, and Port Richey—1.2 million. *See* <<https://www.freemaptools.com/find-population.htm>>.

⁵¹In 2014, the *Island Breeze* operated for three months in Palm Beach. Its owner later blamed its demise on its unfavorable location:

A gambling ship launched last year at the Port of Palm Beach based its operation on other failed business models, and it's difficult for a casino ship to compete when it's not far from on[-]shore casinos such as those in Pompano Beach, according to court records.

Robert Furr, a Boca Raton attorney appointed as trustee in Island Breeze International's bankruptcy case, brought the information to light in a motion to dismiss filed this month.

The company's principal, Brad Prader, testified that the operations he used as models for his business had in fact failed or filed for bankruptcy, court documents state.

Furr asked that the case be dismissed because there is nothing for the trustee to liquidate. IBI leases the ship, and its secured creditor, Source-Point LLC, has a lien on its assets, which mainly consist of gaming equipment and other items on board.

Furr also questioned whether the operation could have been viable given its location. Isle Casino Racing at Pom-

pano Park offers gaming such as live poker and slot machines, as does the Seminole Casino in Coconut Creek.

"I have learned it is very difficult to operate a gambling boat when there are on shore casinos readily available as there are in Pompano Beach, Florida, not far from the market that might be serviced by that particular boat. In parts of the country where there are no other casinos, the gambling boat might be a viable business alternative, but not in this situation. . . ."

Susan Salisbury, *Was Gambling Cruise Sunk Before It Launched?: Trustee: Presence of Onshore Casinos Made Competition Difficult*, PALM BEACH POST, Feb. 16, 2015, at 1A.

⁵²When the owners of the *Southern Elegance* announced plans to bring the vessel to North Florida, huge religious protests broke out:

Casino gambling was supposed to make its first legal appearance in Florida's Bible Belt Wednesday, but a higher power—the U.S. Coast Guard—put off the debut for at least a day.

But the Coast Guard's last-minute decision to postpone the inaugural voyage of the *Southern Elegance*, the casino cruise ship docked in this coastal Panhandle city, won't keep Panama City casino-free.

For that, local preachers and business leaders must appeal to an even higher power. The state and federal governments say there's nothing they can do to stop the *Southern Elegance* from taking gamblers into international waters in the Gulf of Mexico to try their luck at 100 slot machines, seven blackjack tables and two craps tables. . . .

"They"—the fundamentalists who have fought the arrival of the *Southern Elegance* for three weeks—have faced off against those in this coastal city halfway between Tallahassee and Pensacola who stand by an equally strong belief: the power of unbridled capitalism.

In a city that boasts more than 130 churches for 35,000 residents, where the daily newspaper is avowedly and rigidly libertarian, the clash has been ugly.

"This gambling ship is an affront to the will of the people and to the law," said Ted Haney, president of Citizens for a Clean Community, the local anti-casino group. "A lot of us

As a result, the Jacksonville casino boat enjoys a virtual monopoly.⁵³

In Central Florida, gambling is discouraged to protect the region's convention businesses and theme parks (which include such corporate heavyweights as Disney and Universal).⁵⁴ Thus, the Port Canaveral boat also has no competition.⁵⁵

The Port Richey boat, on the other hand, is just an hour away from the Seminoles' sprawl-

ing Hard Rock Tampa (HRT) casino. But because HRT is a luxury property, with prices to match,⁵⁶ the Port Richey boat has managed to carve out a niche for itself by catering to locals looking for a more intimate, and less pricey, venue.⁵⁷

In South Florida, the population always has been pro-gambling (indeed, rabidly so).⁵⁸ As a result, numerous casino boats once dotted its shores. Today,

(footnote 52 continued) have a moral objection to bringing gambling into Bay County."

"I love all you Baptists and I hope we remain friends," retired lawyer Earl Duncan said at a city debate over the ship. "But I want that cruise ship."

Marc Fisher, *Coast Guard Delays Debut of Panhandle Casino Ship*, MIAMI HERALD, June 12, 1986, at 28A.

⁵³See further Roger Bull, *Betting on the First Coast: New Casino Ship at Mayport Will Try to Buck a State Gambling Trend*, FLA. TIMES-UNION (Jacksonville), June 21, 2014, at D1.

No matter where they set up shop, Florida's CTN operators must contend with the state lottery, which began operations in 1987 and has proven to be a fierce competitor. See FLORIDA LOTTERY, MEASURING SUCCESS: 2014–2015 ACHIEVEMENT REPORT 17 (2015), available at <<http://www.flalottery.com/exptkt/annualreport14-15.pdf>> ("The Florida Lottery finished fiscal year 2014–15 with an all-time annual sales record of \$5.58 billion. This standing would put the Florida Lottery, if it was a private company, on the Fortune 500 list where it would rank higher than Neiman Marcus, Levi Strauss, Williams-Sonoma and Raymond James.").

Florida's CTN operators also must compete with the growing popularity of Internet gambling. Although presently illegal, the Florida Legislature at various times has considered legalizing some types of online betting, such as poker and fantasy sports. See H.B. 1441 (2010) (Internet Poker Consumer Protection and Revenue Generation Act); S.B. 832 (2016) (Fantasy Contest Amusement Act). In addition, Internet cafés, which offered sweepstakes-style betting, flourished in Florida until a 2013 scandal involving Lieutenant Governor Jennifer Carroll caused them to be banned. See Bill Cotterell, *Gov. Scott Signs Bill Outlawing "Internet Cafes,"* TAMPA TRIB., Apr. 11, 2013, at 4. ⁵⁴Besides not wanting the additional competition, Disney believes gambling is incompatible with its carefully cultivated family image. As a result, it is the only major multi-day cruise operator whose ships do not have casinos on them. See further Lizette Alvarez and Michael Snyder, *In Florida, Gambling Debate Entangles Disney*, N.Y. TIMES, Oct. 27, 2013, at A16. ⁵⁵Ironically, it gets most of its customers from tourists taking a break from Orlando's attractions. See Dave Berman, *Gambling Pays Off for Victory Casino*, FLA. TODAY (Melbourne), Apr. 22, 2014, at A1 ("About 85 percent of the ship's passengers come to Port Canaveral from at least 50 miles away"). See also Sara K. Clarke, *Casino Ship Seeks Inland Customers*, ORLANDO SENTINEL, July 29, 2011, at B5.

⁵⁶See, e.g., Jim Abbott, *Gamble, Gander Inside Hard Rock*, ORLANDO SENTINEL, May 11, 2014, at F3 ("The casino is part of a 250-room luxury hotel (seminolehardrocktampa.com) that isn't for bargain-hunters. My search for available nights in May and June found rooms priced from \$209 to \$1,009 a night. For that money, guests stay in surroundings 'designed to cater to

rock royalty' that have received the prestigious Four Diamond rating from the American Auto Association for seven straight years. I didn't stay there. Instead, I walked uncertainly around the fringe of the Hard Rock Casino. Even non-gamblers can appreciate that it's an immense space, offering an orgy of color and noise that one would expect from the world's sixth-largest casino.").

⁵⁷The boat's homespun nature was made clear in a recent magazine article:

Everyone wants a bargain. Right? Well, here is one for you right in Port Richey. Whether you are looking for a serene day on the quiet waters of the Pithlascotee River; watching for dolphins or sea turtles in the Gulf; savoring a Reuben, a quarter-pound Coney Island hot dog, chicken Caesar salad and more; enjoying the fiery glow of the setting sun; dancing or singing karaoke along with a live DJ—or if you just love gambling—come to the Tropical Breeze Port Richey Casino, right next door to Hooters on the west side of U.S. 19 just north of the river.

Tropical Breeze is a family-owned-and-operated business. Their company through the years has been named Pair-A-Dice, Paradise, SunCruz, Port Richey Casinos and now Tropical Breeze. The business is still owned by Alex Kolokithas and run with the help of his daughter Stacy Falcone, her husband Mark, son-in-law Bryan Gilchrist and Assistant CEO Beth Fifer, who have all been with the company since its beginning 20 years ago. Not only that, but many of the employees have also been with the company since the beginning, Fifer said.

Alex, his wife Mollie, and their three children were the creators and founders of SunCruz Port Richey Casino. ... In 1992, Mollie had an idea of opening a casino day-cruise named Mr. Lucky that sailed out of Tarpon Springs; it was the first in the area. ... The casino grew rapidly, so in 1995 they opened two others, one in Crystal River and one in Port Richey. "Because the industry and economy changed, we now only operate the one," said Stacy. ...

"Our goal," said Stacy, "is to give our customers a safe, comfortable gambling experience that is less expensive and local. We are a community-oriented business, active members of the West Pasco Chamber of Commerce and supportive of our local businesses by buying here whenever we can."

Denise Zahn, *Fun's a Sure Bet*, BOOMERZ MAG., Aug. 2015, at 5, available at <<http://boomerzmagazine.com/wp-content/uploads/2015/08/Boomerz-Aug15PINweb1.pdf>>.

⁵⁸See, e.g., Robert M. Jarvis, *Gambling in Palm Beach County, Florida*, 18 GAMING L. REV. AND ECON. 702 (2014).

Like others, by "South Florida" I mean "Southeast Florida" (i.e., Fort Lauderdale, Miami, Palm Beach, and, depending on

however, none do.⁵⁹ This is due in part to the fact that there are four Indian casinos in South Florida, including the Seminoles' massive Hard Rock Hollywood (HRH) complex (HRT's sister),⁶⁰ and in part to the fact that most of South Florida's pari-mutuel facilities have slot machines.⁶¹

The Jacksonville and Port Canaveral boats are operated by Tynda Holdings LLC, a Delaware company that does business under the name Victory Casino Cruises (VCC).⁶² In Jacksonville, VCC's boat is known as the *Victory II*; built in 1981, it is 196 feet long and has room for 600 passengers.⁶³

(footnote 58 continued) the context, the Keys). In contrast, "Southwest Florida" (consisting of such cities as Bonita Springs, Fort Myers, and Naples) always has been much more conservative. Nevertheless, for 18 years the BIG "M" casino boat sailed out of Fort Myers. It stopped doing so in 2015. See Casey Logan, *Big 'M' Says Bye to Fort Myers Beach*, NEWS-PRESS (Fort Myers) (Oct. 7, 2015), <<http://www.newspress.com/story/money/2015/10/07/big-m-casino-ship-fort-myers-beach/73526396/>> (reporting that the ship's owner had decided to move the vessel to South Carolina).

⁵⁹The most recent casino boat to go bust in South Florida is the *Blue Horizon*. See David Raterman, *Blue Horizon Halts Gambling Cruises Out of Palm Beach Port*, S. FLA. SUN-SENTINEL, Apr. 8, 2016, at 14 (Showtime) ("Blue Horizon Casino Cruises has stopped operations out of the Port of Palm Beach. The gambling ship's website said, 'This difficult business decision has been made by the owners as it has become inevitable [that] the [renewal of the] Seminole Tribe compact will be enacted. The casino day-cruise industry in the state of Florida can not (*sic*) compete with this land-based expansion of gaming.' . . . The 160-foot ship had struggled to stay afloat financially, putting millions of dollars into renovations and halting operations a couple of other times in the past year.")

⁶⁰In addition to HRH, the Seminoles have a second casino in Hollywood (known as "Classic") as well as one in Coconut Creek (which is aimed at the Palm Beach market). See *Our Properties*, SEMINOLE GAMING, <<http://www.theseminolecasinos.com/>>. In Miami-Dade County, a different tribe (the Miccosukees) operates a casino in far western Miami. See *Gaming*, MICCOSUKEE TRIBE OF INDIANS OF FLORIDA, <<http://www.miccosukee.com/gaming/>>. Unlike the Seminoles, who are able to offer Class III games, the Miccosukees, who have chosen not to seek a compact from the state, are limited to Class II games. See Nick Sortal, *Miccosukees Steer Clear of Politics: Tribe Still Offers Class II Bingo-Type Slots—No Blackjack, No Taxes, No Hassle—Bingo Hall Offers Five-Figure Jackpot*, MIAMI HERALD, Mar. 18, 2016, at 25G.

⁶¹See *supra* note 13. In June 2016, the Florida Supreme Court heard oral arguments in a case brought by pari-mutuel facilities located in other parts of the state. They believe they too are entitled to slots so long as they obtain permission from local voters. See *Gretna Racing, LLC v. Department of Bus. and Prof'l Reg.*, 178 So. 3d 15 (Fla. Dist. Ct. App.), *review granted*, 2015 WL 8212827 (Fla. 2015). Even if the Court rejects this argument (as seems likely), at some point the Florida Legislature probably will greenlight it. See Jim Saunders and Dara Kim, *Slot Machine Spread Backed*, S. FLA. SUN-SENTINEL, Dec. 21, 2016, at 3B

In Port Canaveral, VCC's boat is known as the *Victory I*; built in 1972, it is 309 feet long and can accommodate up to 1,400 passengers.⁶⁴

As VCC's web site explains,⁶⁵ the *Victory I* does two sailings every day and charges \$13 per cruise. The *Victory II* sails twice daily Wednesday through Sunday and also charges \$13 per cruise. Both ships offer blackjack, craps, poker, roulette, slots, and sports books; the *Victory I* also has bingo. Meals are available for purchase, and anyone can become a member of the line's frequent guest program ("Victory Card"). On TripAdvisor, the *Victory I* scores a

("Amid a tangle of legal issues, [Florida] Senate President Joe Negron on Tuesday signaled support for allowing slot machines in . . . counties where voters have approved expanded gambling. Voters in Duval and St. Lucie counties last month approved referendums to allow slot machines at pari-mutuel facilities, joining six other counties [Brevard, Gadsden, Hamilton, Lee, Palm Beach, and Washington] that had done so earlier.")

Of course, any increase in land-based slots likely would be the final nail in the coffin of Florida's CTN industry. In its unsuccessful effort to defeat Brevard County's 2012 referendum, Port Canaveral's operator told voters as much:

Melbourne Greyhound Park [is] looking to add[] 2,000 slot machines to [its] existing dog racing, simulcast and poker operation—if [it] can persuade local voters to say yes to a referendum on the November ballot that would open the door to slots and then get a license from the state.

The expansion could make it easier for local gamblers to get their fix, but also sets up a conflict with the casino cruise ship at the port as well as Florida anti-gambling organizations.

Victory Casino's operators argue land-based slots in Melbourne will put them out of business, endangering jobs there and reducing revenue for the port. But Melbourne Greyhound Park says its expansion would create hundreds of new jobs and provide millions of dollars in new tax revenue for local and state governments.

Wayne T. Price, *Slots Could Bring Jobs to Brevard, But Are They Legal?*, FLA. TODAY (Melbourne), Oct. 21, 2012, at 1C.

⁶²This information is taken from paragraph 1 of the complaint Tynda filed in June 2016 alleging that another company (not involved in the CTN industry) was infringing its trademark. See *Tynda Holdings LLC v. Victory Cruise Mgmt., Inc.*, Case No. 1:16-cv-22266-JAL (S.D. Fla.), *available at* <<https://ecf.flsd.uscourts.gov/doc1/051116613198>> [hereinafter *Tynda Complaint*].

⁶³*Id.* at ¶¶ 20–22. For a photograph of the *Victory II*, see <<http://firstcoastmagazine.com/wp-content/uploads/2014/08/casino1.jpg>>.

⁶⁴Tynda Complaint, *supra* note 62, at ¶¶ 17–19. For a photograph of the *Victory I*, see <<http://www.shipspotting.com/gallery/photo.php?lid=2279483>>.

⁶⁵See <<http://www.victorycasinocruises.com/>>. This site redirects users to separate ones for Jacksonville (<<http://victoryjax.com/>>) and Port Canaveral (<<http://victorycasinocruises.com/index.php>>).

4.0 out of a possible 5.0 based on 899 reviews.⁶⁶ The *Victory II* scores a 3.5 based on 135 reviews.⁶⁷

The Port Richey boat, known as the *Tropical Breeze I*, is owned by Tropical Breeze Casino Cruz, LLC.⁶⁸ Built in 1991, it is 78 feet long, holds 149 passengers, and operates daily except Tuesdays.⁶⁹ On sail days, it departs in the morning and then remains anchored off the coast until the end of the evening. In-between, players take a tender. Boarding costs \$8; food is available for purchase aboard the boat. On TripAdvisor, it scores a 2.5 based on 135 reviews.⁷⁰

Unsurprisingly, each of these vessels has a connection to SunCruz. The *Tropical Breeze I* was the

Suncruz I; the *Victory I* was the *Suncruz XII* (most people, however, remember her as the *Surfside Princess*); and the *Victory II* operated in South Carolina as the *Suncruz Aquasino*.⁷¹

IV. CONCLUSION

Florida's CTN industry, which peaked in 1999, has been in a long and painful decline for years. Whether the last three boats (and any others that may yet come along) have a future remains to be seen. The odds, however, are not promising.

⁶⁶See *Victory Casino Cruises*, TRIPADVISOR, <https://www.tripadvisor.com/Attraction_Review-g34117-d2229441-Reviews-Victory_Casino_Cruises-Cape_Canaveral_Brevard_County_Florida.html>.

⁶⁷See *Victory Casino Cruises Jacksonville*, TRIPADVISOR, <https://www.tripadvisor.com/Attraction_Review-g60805-d6861661-Reviews-Victory_Casino_Cruises_Jacksonville-Jacksonville_Florida.html>.

⁶⁸The information in this paragraph comes chiefly from DEP Registration Program, *supra* note 17; Zahn, *supra* note 57; the company's web site (<<http://www.portricheycasino.com/>>); Florida's state corporate records (<<http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>>); and a lengthy (9:44 minutes) YouTube video entitled *Tropical Breeze Casino Sun Cruz Port Richey Florida*, available at <<https://www.youtube.com/watch?v=BXxzpu6coV4>>.

⁶⁹For a photograph of the *Tropical Breeze I*, see <http://img2.10bestmedia.com/Images/Photos/190902/p-Tropical-Breeze-Casino-Boat-1_54_990x660_201405312336.jpg>.

⁷⁰See *SunCruz Port Richey Casino*, TRIPADVISOR, <https://www.tripadvisor.com/Attraction_Review-g34577-d2538016-Reviews-SunCruz_Port_Richey_Casino-Port_Richey_Florida.html>.

⁷¹See National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service, *Coast Guard Vessel Documentation*, NOAA, available at <http://www.st.nmfs.noaa.gov/pls/webpls/cgv_pkg.vessel_name_list> (name search results for each vessel).