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LA CROSSE QUEEN INC 95CV0297 081095 DANE CTY CIR CT

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STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 2

DANE COUNTY

LACROSSE QUEEN, INC.,

Petitioner,

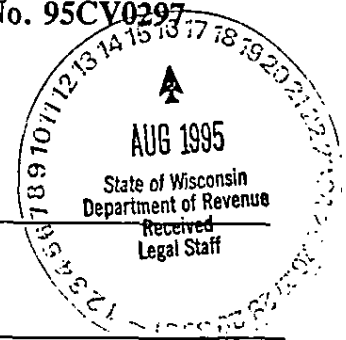
vs.

WISCONSIN DEPT. OF REVENUE,

Respondent.

Case No. 95CV0297

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DECISION ON PETITION FOR REVIEW

The petitioner asks review of a decision of the Tax Appeals Commission affirming the determination of the Department of Revenue that the gross receipts of the petitioner are subject to tax. The petitioner relies on the "exemption" set forth in Sec. 77.54(13) Wis.

Stats.:

(13) The gross receipts from the sales of and the storage, use or other consumption in this state of commercial vessels and barges of 50-ton burden or over primarily engaged in interstate or foreign commerce or commercial fishing, and the accessories, attachments, parts and fuel therefor.

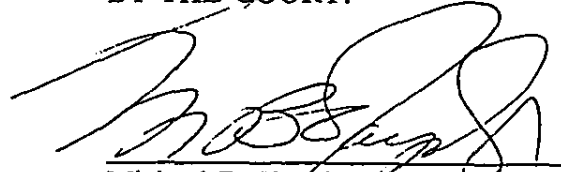
The matter of tonnage is not at issue; the matter of primary engagement in interstate commerce is at issue.

The Court affirms the decision of the Tax Appeals Commission and adopts the reasoning set forth in the respondent's briefs. On the uncontested facts, the vessel is not primarily engaged in interstate commerce. It is engaged in a local, state recreational activity which originates in Wisconsin and terminates in Wisconsin. The only contact with non-Wisconsin geography is the slap of a wave on the hull of the boat as it meanders on the

Mississippi River. The fact that many of the passengers have addresses outside the State of Wisconsin does not justify a conclusion that the commerce of the vessel is anything other than intrastate.

Date: 8/10/95

BY THE COURT:

A handwritten signature in black ink, appearing to read "Michael B. Torphy, Jr.", written over a horizontal line.

Michael B. Torphy, Jr., Judge  
Circuit Court, Branch 2

cc: Attorney Paul J. Munson  
AAG Gerald S. Wilcox