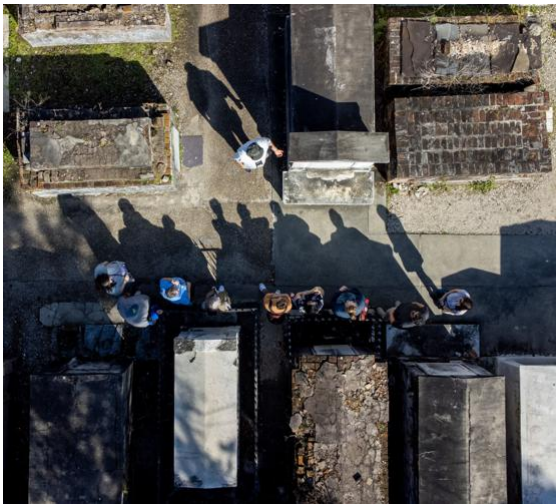


Tour guides barred from New Orleans' historic St. Louis Cemetery No. 1 lose appeal in federal court



Visitors take a tour of St. Louis Cemetery No. 1 on Basin Street in New Orleans, Tuesday, Jan. 10, 2023. In partnership with New Orleans Catholic Cemeteries, Cemetery Tours NOLA provides the official tour of the cemetery. (Staff Photo by David Grunfeld, NOLA.com | The Times-Picayune)
STAFF PHOTO BY DAVID GRUNFELD

BY STEPHANIE RIEGEL | STAFF WRITER
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For much of the past decade, Jordan Hobson gave tours of the French Quarter’s reputedly haunted sites and historic cemeteries through the company she manages, Witches Brew Tours.

The most popular stop was always the famed St. Louis Cemetery No. 1 on Basin Street, home to the tombs of Homer Plessy and Voodoo Queen Marie Laveau, among others.

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Witches Brew walked an estimated 20,000 tourists through the historic burial ground in 2019 alone, according to Hobson.

“Voodoo is such a big thing with tourists, they always want to see Marie Laveau’s grave,” she said. “This particular cemetery is really important in the culture and history of the city.”

Now, guides from Witches Brew and dozens of other tour companies have been effectively banned from plying their trade in the historic cemetery, which is owned by the Archdiocese of New Orleans.

A ruling this month from the U.S. Fifth Circuit Court of Appeals restricts access to St. Louis No. 1 to the immediate family of those buried there and to a single tour company, Cemetery Tours NOLA, that is in business with the archdiocese.

The ruling came in a suit that Witches Brew and some 75 other local tour operators, New Orleans Association of Tour Guides and Companies, filed in U.S. District Court, after the archdiocese began restricting access to the cemetery in 2021. The suit argued limiting cemetery access violated state

and federal antitrust laws and amounted to price fixing.

The suit was filed against the arm of the archdiocese that owns area cemeteries, New Orleans Catholic Cemeteries, and Cemetery Tours NOLA, which is owned by French Quarter hotelier Michael Valentino.



St. Louis Cemetery Number 1 and Marie Laveau's tomb in New Orleans on Wednesday, May 25, 2022. (Photo by Chris Granger | The Times-Picayune | The New Orleans Advocate)

STAFF PHOTO BY CHRIS GRANGER



A Hop On Hop Off tour bus passes along St. Louis Cemetery No. 1 in New Orleans on Friday, November 5, 2021. (Photo by Chris Granger | The Times-Picayune | The New Orleans Advocate)

CHRIS GRANGER

Though the matter never went to trial, Catholic Cemeteries successfully had the suit dismissed last summer, largely on procedural grounds. Hobson's group appealed, but in a ruling from judges Carolyn King, Carl Stewart and Catharina Haynes, the appeals court upheld the lower court decision.

A spokesperson for Catholic Cemeteries said in a prepared statement: "We agree with the U.S. Fifth Circuit Court's ruling that upholds the case's dismissal. Our focus is always to be good stewards of the cemeteries on behalf of the families who own tombs there. This ruling allows us to continue to allow tourists to visit our sacred and historic cemeteries while protecting them on behalf of families and our community now and for future generations."

'It was chaos in there'

St. Louis Cemetery No. 1 was founded in 1789 as "the new city cemetery," after a since-relocated burial ground on St. Peter Street ran out of plots in the wake of a massive fire, a major flood and a yellow fever epidemic.

With its thousands of elaborate mausoleums, vaults and tombs, the cemetery is the oldest of New Orleans' surviving "cities of the dead," drawing hundreds of thousands of visitors annually. The nearby St. Louis Cemetery No. 2 is also a popular tourist draw.

The legal dispute involving the tour guides dates back to early 2020, when Catholic Cemeteries closed both historic cemeteries to all tourists amid citywide COVID-related shutdowns. In late 2021, the organization reopened St. Louis Cemetery No. 1, but limited access only to immediate family and Cemetery Tours NOLA, which has a contract with the archdiocese, court documents show.

Under the terms of the contract, the company charges \$25 for adult admissions to the cemetery and \$18 for tour wholesalers.

Catholic Cemeteries declined to comment on why it chose to limit access to just one company and how it chose Cemetery Tours NOLA, citing the ongoing litigation.

Valentino said his firm was selected after responding to a request for proposals from the archdiocese seeking a single operator.

"I think I know what their motivation was and it was because it was chaos in there when there were multiple tour guides," said Valentino, who also owns Hop On Hop Off Bus Tours. "I imagine they wanted to clean it up. But I can't say specifically."



A Hop On Hop Off tour bus passes along St. Louis Cemetery No. 1 in New Orleans on Friday, November 5, 2021. (Photo by Chris Granger | The Times-Picayune | The New Orleans Advocate)

CHRIS GRANGER

Witches Brew and the others challenged the move in court, arguing it amounted to price fixing, violated federal and state antitrust law, and threatened to put smaller tour operators and individual guides out of business.

“For some of these tour guides, this is their entire career,” Hobson said. “They put years of their life into this. This is what they care about. This was their passion.”

Catholic Cemeteries sought to dismiss the suit, arguing that it failed to show how limiting access to the cemetery affected interstate commerce, violated antitrust laws or produced any anticompetitive harmful effects, among other things, court documents show.

The two sides never went to trial, but fought over procedural issues throughout the first half of 2022. In August, the district court threw out the case. In January, the 5th Circuit upheld the lower court’s decision.

Supreme Court?

“I was really disappointed,” said David Nance, an attorney who represents the aggrieved tour group operators. “If the facts and law are against you, your only defense is to use procedure and that is what we have been dealing with.”

Nance plans to try to appeal to the U.S. Supreme Court. It's a longshot. The nation's high court hears fewer than 1.5% of the cases it is asked to review each year. Hobson vowed to continue the fight.



Tomb are seen in St. Louis Cemetery No. 1, which is operated by the Archdiocese of New Orleans, in New Orleans, La. Thursday, Nov. 4, 2021. (Photo by Max Becherer, NOLA.com, The Times-Picayune | The New Orleans Advocate)

STAFF PHOTO BY MAX BECHERER

“We are going to push forward as much as we can, as long as the law is on our side,” she said. “But we have an uphill climb for sure.”

In the meantime, Nance said several small tour group operators are struggling with the loss of cemetery tour business. Some have gone out of business, he said.

Another concern, he said, is that the ruling is setting a precedent that Catholic Cemeteries or the city — which also operates historic cemeteries, including Lafayette Cemetery No. 1 in the Garden District — could try to restrict access to other burial grounds that have made the tourist maps.

“Cemeteries do not have a right to monetize access because they do not have a right to control access,” Nance said. “The state and city are supposed to protect peoples’ right to get into these cemeteries.”

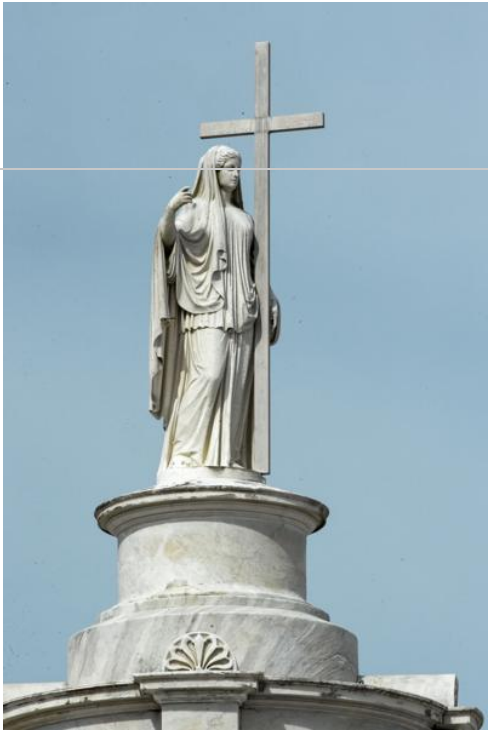
The archdiocese declined to comment on whether it plans to reopen St. Louis Cemetery No. 2 to tourist groups and, if so, whether it will restrict access to just a single tour operator.

Currently, that cemetery is open to family members from 9 a.m.-noon Sunday and by appointment.

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The top of a tomb is seen in St. Louis Cemetery No. 1, which is operated by the Archdiocese of New Orleans, in New Orleans, La. Thursday, Nov. 4, 2021. (Photo by Max Becherer, NOLA.com, The Times-Picayune | The New Orleans Advocate)
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