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## The Supreme Court Rejects Punitive Damages in Unseaworthiness Claims

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*A recent United States Supreme Court ruling held that a plaintiff may not recover punitive damages on a maritime claim of unseaworthiness. This new ruling has resolved a split among the circuits and has essentially reinforced an otherwise long-standing precedent.*

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On June 24, 2019, the United States Supreme Court decided *Dutra Group v. Batterton*, holding 6-3, that a plaintiff may not recover punitive damages on a claim of unseaworthiness. Justice Alito delivered the opinion of the Court in which Justices Roberts, Thomas, Kagan, Gorsuch, and Kavanaugh joined. Justice Ginsburg filed a dissenting opinion in which Justices Breyer and Sotomayor joined.

This case arose from a personal injury incident aboard a vessel. Christopher Batterton was working as a deckhand on the vessel, which The Dutra Group owned and operated, when a hatch cover blew open and severely injured his hand. Batterton sued Dutra, asserting a variety of claims, including unseaworthiness, and sought general and punitive damages. Dutra moved to dismiss the punitive damages claim, arguing that such damages were not available on claims for unseaworthiness. The District Court denied Dutra's motion, and the Ninth Circuit affirmed. But the Supreme Court reversed.

The Court noted that the overwhelming historical evidence suggests that punitive damages are not available for unseaworthiness claims and that the lack of punitive damages in traditional maritime law cases is "practically dispositive." The Court said, "because there is no historical basis for allowing punitive damages in unseaworthiness actions, and in order to promote uniformity with the way courts have applied parallel statutory causes of action, we hold that punitive damages remain unavailable in unseaworthiness actions."

To reach this holding, the Court first distinguished two prior conflicting holdings from cases where it confronted similar issues. In the first, *Miles v. Apex Marine Corp.*, a wrongful death claim under general maritime law, the Court held that recovery was limited to pecuniary damages, which did not include loss of society. Yet, in the second case, *Atlantic Sounding Co. v. Townsend*, the Court held a plaintiff may seek punitive damages under maritime law for an employer's willful and wanton disregard of its

obligation to pay maintenance and cure. It distinguished *Atlantic Sounding* by noting that the historical evidence on which the Court relied provided for punitive damages for certain maritime torts that included maintenance-and-cure cases, though in contrast, punitive damages were unavailable under the Jones Act as well as general maritime-law unseaworthiness actions.

Batterton also failed to persuade the Court that it was compelled to allow punitive damages for unseaworthiness claims on policy grounds or as a regulatory measure. For the Court reasoned that to do so would introduce novel remedies contradictory to those provided by Congress in similar areas. It also argued that allowing such damages would create bizarre disparities in the law. For instance, in complying with *Miles*, a mariner would be permitted to make a claim for punitive damages if he or she were injured aboard a vessel, but the mariner's estate would lose the right to seek punitive damages if the mariner died from his or her injuries. And secondly, since unseaworthiness claims run against the owner of the vessel, the ship's owner could be liable for punitive damages under the Jones Act while the ship's master or operator would not, even though the latter have more control over onboard conditions and are positioned better to minimize potential risks.

With this new holding, the Court closed the door on the potential use of various damage models, which would have permitted larger awards under the judicially created unseaworthiness cause of action than what Congress provided for in the Jones Act. Had the Court permitted punitive damages for these claims, arguably maritime companies would be forced to calculate and add the cost of such damages in their risk assessments models. Inevitable price increases would subsequently trickle down to their customers and ultimately create an upsurge in the cost of maritime commerce.

In Justice Ginsburg's dissent, she wrote that in *Exxon Shipping Co., v. Baker*, the Supreme Court recognized that punitive damages are normally available in maritime cases and that per *Atlantic Sounding*, "punitive damages are not categorically barred in unseaworthiness actions."

Additionally, Justice Ginsburg argued against the majority by stating that punitive damages in unseaworthiness claims would not impair maritime commerce, as the majority warned, since punitive damages in maintenance-and-cure cases in the past decade, as well as in unseaworthiness cases in other Circuits for longer, have not shown this significant impact. Finally, she wrote that permitting punitive damages for unseaworthiness would not create the "bizarre disparities" suggested by the majority, and that the Court actually caused a bizarre disparity in permitting punitive damages for willful and wanton breach of the duty to provide maintenance and cure, but not for similarly culpable breaches of the duty to provide a seaworthy vessel.

It is important to note that the current remedies available to mariners who suffer injury aboard ship remain claims of negligence against their employer under the Jones Act for failure to provide a reasonably safe place to work and failure to use ordinary care to prevent injury, as well as strict liability unseaworthiness claims against the vessel owner for failure to provide and maintain a seaworthy vessel, including its parts and equipment. It is often the case that the vessel owner and employer are the same person or entity; however, if not, it is specifically the vessel owner who has a non-delegable duty to maintain a seaworthy vessel. The Supreme Court intends for its holding in *Batterton* to promote the maritime principle of uniformity, to wit: if a class of damages is unavailable under a maritime statutory cause of action, the same would be true for a parallel claim under the general maritime law.

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