



THE SUPREME COURT OF THE UNITED STATES DECIDES *DUTRA GROUP V. BATTERTON*

The Supreme Court of the United States decides *Dutra Group v. Batterton* settling the split between the Fifth and the Ninth Circuits, reconciling *Miles v. Apex* and *Atlantic Sounding Co. v. Townsend* and holding that punitive damages are NOT available in seamen's unseaworthiness actions.

On June 24, 2019, the Supreme Court held in a 6-3 opinion drafted by Justice Alito joined by Chief Justice Roberts, Justices Thomas, Kagan, Gorsuch, and Kavanaugh, that a Jones Act seaman could not recover punitive damages for the unseaworthiness of a vessel. Justice Ginsberg dissented, joined by Justices Breyer and Sotomayor. HFW USA appeared as *amicus curiae* counsel on behalf of the International Association of Drilling Contractors.

Mr. Batterton was working on a vessel owned by the Dutra Group, when he injured his left hand as a hatch cover blew open due to the unseaworthiness of the vessel. The only issue presented was whether punitive damages are an available remedy for unseaworthiness claims. In 2014, the Fifth Circuit in *McBride v. Estis Well Serv., LLC*, 768 F.3d 382 (5th Cir. 2014) (en banc), held that it wasn't an available remedy. Four years later, the Ninth Circuit, in *Batterton v. Dutra*, 880 F.3d 1089 (9th Cir. 2018), specifically rejected *McBride* and held that it was. The Supreme Court has resolved the split and sided with the Fifth Circuit holding that punitive damages are not an available remedy in an unseaworthiness action.

The Court began its analysis by recognizing in the 19th century seamen lead "miserable lives" and were viewed "emphatically the wards of the admiralty." In that era, the Court noted, "the primary responsibility for protecting seamen lay in the courts" Part of Batterton's argument was indeed focused on the maritime doctrine encouraging special solicitude for the welfare of seamen. Some courts still extend this solicitude. Nevertheless, the Court commented that this "doctrine has never been a commandment that the maritime law must favor seamen whenever possible." The Court noted times have changed and seamen are no longer isolated nor as dependent on their employers as were their predecessors in the days of sail. The Court wrote "[t]he special solicitude to sailors has only a small role to play in contemporary maritime law. It is not sufficient to overcome the weight of authority indicating the punitive damages are unavailable."

This opinion reconciles *Miles v. Apex*, 498 U.S. 19 (1990) and *Atlantic Sounding Co. v. Townsend*, 557 U.S. 404 (2009). In *Miles*, the U.S. Supreme Court, in a general maritime law wrongful death claim, held that recovery was limited to pecuniary damages which did not include loss of society (or punitive damages). On the other hand, in *Atlantic Sounding Co.*, the Supreme Court held that punitive damages were recoverable for the traditional maritime claim of maintenance and cure. *Miles* and *Atlantic Sounding Co.* created confusion, disagreements and splits amongst various Circuits.

Justice Alito conducted an exhaustive review of the history of the unseaworthiness claim and its place in modern statutory framework. The opinion states that historically seamen could recover for injuries based on two causes of action: maintenance and cure, and unseaworthiness. Further, the unseaworthiness claim did not historically nor traditionally allow for the recovery of punitive damages. On policy grounds, the Court explained that "it would exceed [their] current role to introduce novel remedies contradictory to those Congress [...] provided in similar areas," emphasizing that from the enactment of the Jones Act to the present, Federal Courts uniformly held that punitive damages were not available under the Jones Act.

The Court distinguished the availability of punitive damages for maintenance and cure claims because, unlike unseaworthiness claims, there is an abundance of decisions holding that punitive damages under maintenance and cure claims are an available remedy, as suggested in *Atlantic Sounding*.

Justice Alito concluded that allowing punitive damages in unseaworthiness claims would "create bizarre disparities in the law [...], place American shippers at a significant competitive disadvantage, [and] would discourage foreign-owned vessels from employing American seamen."

This opinion is a long-awaited clarification of the remedies available to Jones Act seamen. Its guidance resolves the split in the circuits and provides more predictability for litigants on both sides of the docket. To view the Court's opinion, please visit <http://www.hfw.com/downloads/Dutra-Group-v-Batterton.pdf>. If you would like a copy of our brief, please let us know.

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