

**Gallagher Sharp Maritime Newsflash:  
BREAKING: United States Supreme Court Rules Mariners Cannot Recover  
Punitive Damages in Unseaworthiness Claims**

*By Attorneys Paul D. Galea and Markus E. Apelis*

On June 24, 2019, the Supreme Court of the United States, in a 6-3 decision, held that an injured mariner cannot recover punitive damages as part of an unseaworthiness claim. *See Dutra Group v. Batterton*, Sup. Ct. No. 18-266, 588 U.S. \_\_\_\_ (2019). In *Batterton*, an injured mariner (Batterton) filed suit against a shipowner (the Dutra Group) alleging a variety of claims, including negligence under the Jones Act, unseaworthiness, maintenance and cure, and unearned wages. Batterton worked as a deckhand aboard a vessel owned and operated by the Dutra Group, a dredging and marine construction company. Batterton claimed that he was working aboard a Dutra Group vessel when fellow crewmembers pumped pressurized air into a below-deck compartment, which over-pressurization caused a hatch cover to blow open, pinning Batterton's hand between the hatch cover and bulkhead. Batterton was injured as a result of the accident.

Dutra Group moved to strike or dismiss Batterton's claim for punitive damages as part of his unseaworthiness claim. The federal district court denied the motion. On interlocutory appeal, the U.S. Ninth Circuit Court of Appeals affirmed the district court and allowed the punitive damages claim to proceed, based on established precedent in the Ninth Circuit. This decision continued to put the Ninth Circuit at odds with other federal appellate circuits, most notably the Fifth and First Circuits, which did not allow the recovery of punitive damages. Dutra Group appealed to the Supreme Court, which accepted the case to resolve the division.

The Supreme Court reversed the Ninth Circuit and held that an injured mariner may not recover punitive damages as a component of unseaworthiness claims. This decision was based on several considerations, including policy guidance from congressional enactments (such as the Jones Act), a lack of historical evidence that the general maritime law provided for the recovery of such damages for unseaworthiness, a need to harmonize the application of the law in various contexts, and commercial concerns over placing American mariners and vessel owners at an international competitive disadvantage.

Justice Alito authored the Court's majority opinion, in which Chief Justice Roberts and Justices Thomas, Kagan, Gorsuch, and Kavanaugh joined. Justice Ginsburg, joined by Justices Breyer and Sotomayor, dissented. A copy of the opinion is available at: [https://www.supremecourt.gov/opinions/18pdf/18-266\\_m6io.pdf](https://www.supremecourt.gov/opinions/18pdf/18-266_m6io.pdf)

As our admiralty and maritime law attorneys analyze this important opinion, Gallagher Sharp will continue to provide updated analysis of the impact of this opinion on the defense of vessel

owners in personal injury actions. Until then, please contact Paul Galea or Markus Apelis with any questions:

**Paul D. Galea, Partner**  
**Gallagher Sharp LLP**  
211 West Fort Street, Suite 660  
Detroit, MI 48226  
(313) 962-9160  
[www.gallaghersharp.com](http://www.gallaghersharp.com)

**Markus E. Apelis, Partner**  
**Gallagher Sharp LLP**  
Sixth Floor, Bulkley Building  
1501 Euclid Avenue  
Cleveland, Ohio 44115  
(216) 241-5310  
[www.gallaghersharp.com](http://www.gallaghersharp.com)