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Enough Is Enough: Maritime Law Bars Recovery for Punitive Damage Claims

A Commentary by Edward R. Hugo and Bina Ghanaat
Author bios on page 6

Historically, federal courts have developed an "amalgam of traditional common-law rules, modifications of those rules, and newly created rules that forms the general maritime law." *The Dutra Group v. Batterton*, 588 U.S. 358, 360 (2019) ["*Batterton*"]. By granting federal courts jurisdiction over maritime and admiralty cases, the Constitution implicitly directs federal courts sitting in admiralty to proceed "in the manner of a common law court." *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 489-90 (2008). Thus, where Congress has not prescribed specific rules, federal courts must develop the "amalgam of traditional common-law rules, modifications of those rules, and newly created rules" that forms the general maritime law. *East River S.S. Corp. v. Transamerica Delaval, Inc.*, 476 U.S. 858, 864-65 (1986). But maritime law is no longer solely the province of the federal judiciary because "Congress and the States have legislated extensively in these areas." *Miles v. Apex Marine Corp.*, 498 U.S. 19, 27 (1990) ["*Miles*"]. When exercising its inherent common-law authority, "an admiralty court should look primarily to these legislative enactments for policy guidance." *Id.*

This amalgamation accelerated just over 100 years ago when Congress began enacting federal maritime statutes to provide more and better protection for seamen. *See Miles*, 498 U.S. at 23, 27. In 1920, for example, Congress enacted the Jones Act, which created a statutory cause of action for seamen to sue their employers for negligence. *See Atlantic Sounding Co. v. Townsend*, 557 U.S. 404, 415-16 (2009). The Jones Act did not explicitly eliminate pre-existing causes of action or remedies under general maritime law. *Id.* Rather, an injured seaman has "a choice of actions," and may "elect" to proceed under the Jones Act. *Id.* at 416. As such, plaintiffs can, and often do, bring claims under both general maritime law and federal maritime statutes. Over the following decades, this dual system has led to questions about what relief is available to injured seamen and their families.

In *Miles*, the Supreme Court began to clarify the conflicting remedies available under general maritime law and federal maritime statues. *Miles* was a wrongful death action brought by the mother of a seaman stabbed and killed by a fellow seaman while aboard a ship docked in Washington. *Miles*, 498 U.S. at 19. The seaman's mother sued the ship's owners and operators under both general maritime law for unseaworthiness and under the Jones Act for negligence, claiming the defendants had hired a crew member unfit to serve. *Id.* She sought recovery for loss of society and punitive damages based on her general maritime law claim. *Id.*

The Court held that recovery under the general maritime law was limited to pecuniary damages. *Miles*, 498 U.S. at 23. In holding that the plaintiff could not recover such damages under general maritime law, the Supreme Court held that it would be "inconsistent with our place in the constitutional scheme" to award greater damages for claims brought under causes of action created by judges under general maritime law than for claims brought under the Jones Act. *Id.* at 31-33 ["Congress has spoken directly to the question of recoverable damages on the high seas, and when it does speak directly to a question, the courts are not free to 'supplement' Congress' answer so thoroughly that the Act becomes meaningless."] (quotations omitted). *See also id.* at 27 ["Congress retains superior authority in these matters, and an admiralty court must be vigilant not to overstep the well-considered boundaries imposed by federal legislation."]. The Court emphasized the need to "restore a uniform rule applicable to all actions for the wrongful death of a seaman, whether under [The Death on the High Seas Act ("DOHSA")], the Jones Act, or general maritime law." *Id.* at 33.

Initially, federal courts interpreted *Miles* broadly, holding that non-pecuniary damages were *never* allowed in wrongful death cases, regardless of whether they were brought under general maritime law or maritime statutory law. *See, e.g.*, *Davis v. Bender Shipbuilding and Repair Co., Inc.*, 27 F.3d 426, 430 (9th Cir. 1994); *Smith v. Trinidad Corp.*, 992 F.2d 996 (9th Cir. 1993) [following *Miles*, holding that a plaintiff may not recover for loss of society in wrongful death actions under

general maritime law]; *Chan v. Society Expeditions, Inc.*, 39 F.3d 1398, 1408 (9th Cir. 1994) [rejecting loss of consortium claim by cruise passenger when an inflatable raft capsized and injured her husband]; *Cox v. Princess Cruise Lines, Ltd.*, 2013 WL 3233461, at *4 (C.D. Cal. June 25, 2013) [collecting cases].

In 2009, in *Townsend*, the Supreme Court affirmed that the reasoning of *Miles* was still sound but also found that punitive damages would be available for one area of general maritime claims that had allowed such damages even before state and federal legislation had overtaken the area. That one area is "maintenance and cure" claims. "A claim for maintenance and cure concerns the vessel owner's obligation to provide food, lodging, and medical services to a seaman injured while serving the ship." *Lewis v. Lewis & Clark Marine, Inc.*, 531 U.S. 438, 441 (2001).

Ten years after the ruling in *Townsend*, the Supreme Court decided *The Dutra Group v. Batterton*, 588 U.S. 358 (2019), defining what damages are available under general maritime law cases, including asbestos personal injury and wrongful death cases. In *Batterton*, the Court applied the *Townsend* framework, concluding that there was no historical basis for allowing punitive damages for unseaworthiness claims. *Batterton*, 588 U.S. at 362-365.

As *Miles* remains the controlling authority addressing the permissible scope of recovery sought by or on behalf of a Jones Act seaman[1] in a maritime personal injury strict liability or negligence-based case – and it precludes the recovery of non-pecuniary damages – punitive damages are not available in maritime asbestos personal injury and wrongful death actions.

"[P]laintiffs can, and often do, bring claims under both general maritime law and federal maritime statutes. Over the following decades, this dual system has led to questions about what relief is available to injured seamen and their families.

In Line with Supreme Court Authority, Various District Courts Have Precluded Recovery of Non-Pecuniary Damages in Asbestos Personal Injury and Wrongful Death Claims

Most recently, on July 28, 2025, the Honorable Rita F. Lin issued an order in the matter of *Vernon Armstrong v. Paramount Global, et al.*, U.S.D.C., Northern District of California, Case No. 3:25-cv-00925-RFL, holding in relevant part that:

> Without historical evidence that punitive damages are traditionally recoverable for negligence and strict liability claims," *Smargisso v. Air & Liquid Sys. Corp.*, 750 F. Supp. 3d. 1046, 1066 (N.D. Cal. 2024), the Court must apply a uniform rule applicable to all actions for the same injury, whether under the Jones Act or a general maritime law. *Miles v Apex Marine Corp.*, 498 U.S. 19, 33 (1990). And, because the Jones Act does not permit recovery of non-pecuniary damages, punitive damages are not available to (the asbestos personal injury plaintiff) under maritime law.[2]

Public Policy Supports the Preclusion of Punitive Damages in Maritime Personal Injury and Wrongful Death Claims

The Honorable George H. Wu acknowledged this point when declining to instruct the jury regarding punitive damages in the matter of *Rosa Dennis v. Foster Wheeler, et al.*, U.S.D.C., Central District of California, Case No. 2:19-cv-09343-GW-K:

> But even if punitive damages were available, again, the primary fault is failure to warn, and under the facts of this particular case, especially since this supposed improper or bad conduct occurred between the 60s and 70s, and the point of having punitive damages is to provide retribution and deterrence at that point, it has no deterrent effect since the Navy no longer requires asbestos.
>
> And as to retribution, this contact that occurred so long ago in the context of a failure — supposed failure to warn where there was — I guess disputes as to the extent to which it was either required or necessary or available or whatever, it would not

seem to me there is [a] basis upon which you could establish outrageousness in this type of context.

So for that reason, I'm not going to put forth a punitive theory damages type of theory in this particular case.

Conclusion

Enough is enough! Decades after asbestos was required, specified, or even permitted aboard ships, there is no deterrent effect in imposing punitive damages in 2025, whether in state or federal court. And, as a matter of law, maritime law bars the recovery of non-pecuniary damages.

Footnotes

[1] The Supreme Court has recognized that to be considered a seaman "[i]t was only necessary that a person be employed on board a vessel in furtherance of its purpose," and that "[a]ll who work at sea in the service of a ship" or those who "contribut[e] to the function of the vessel or to the accomplishment of its mission" are seamen. *See McDermott Intern, Inc. v. Wilander*, 498 U.S. 337, 354-55 (1990). *See also Hays v. John Crane, Inc.*, 2014 WL 10658453, at *2 (S.D. Fla. Oct. 10, 2014) (adopting the Supreme Court's definition in finding that an asbestos plaintiff injured aboard Navy vessels "unquestionably met this definition" under both general maritime law and under the Jones Act, and therefore, was considered a "Jones Act seaman").

In *Davis v. Bender Shipbuilding and Repair Co*., 27 F.3d 426, 430 (9th Cir. 1994), the court rejected the plaintiffs' attempt to distinguish *Miles* on the basis that the defendant was not a "Jones Act defendant." In deciding whether the rationale of *Miles* applies, the court emphasized that the "*identity of the defendant is irrelevant*" [emphasis added].

[2] Previously, on September 26, 2024, Judge Lin issued an order in the matter of *Stephanie Smargisso, et al. v. Air & Liquid Systems Corporation, et al.*, U.S.D.C., Northern District of California, Case No. 23-cv-01414-RFL, holding in relevant part that:

> While [the *Smargisso*] Plaintiffs cite authority that punitive damages were available for "various maritime torts stretching back to the 1800s," including marine trespass and intentional torts, they have not put forth any evidence that punitive damages were historically available for negligence and strict liability claims specifically—the claims at issue here. (Dkt. No. 139 at 13.) Thus, Plaintiffs fail to establish that the relief sought has been historically available under general maritime law. *See Elorreaga v. Rockwell Automation, Inc*., No. 21-CV-05696-HSG, 2022 WL 2528600, at *5 (N.D. Cal. July 7, 2022).
>
> Plaintiffs' failure to satisfy step one of the *Townsend* framework is "practically dispositive" of the unavailability of punitive damages. *Batterton*, 139 S. Ct. at 2283. As for policy grounds, without historical evidence that punitive damages are tradition-

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"Enough is enough! Decades after asbestos was required, specified, or even permitted aboard ships, there is no deterrent effect in imposing punitive damages in 2025, whether in state or federal court. And, as a matter of law, maritime law bars the recovery of non-pecuniary damages."

ally recoverable for negligence and strict liability claims, the Court must follow the command in *Miles v. Apex Marine Corp.*, 498 U.S. 19 (1990), to promote "a uniform rule applicable to all actions for the same injury, whether under the Jones Act or the general maritime law." *Id.* at 33. Under the Jones Act, which is a parallel statutory scheme for maritime claims, Ankiel would be limited to pecuniary losses, and could not recover non-pecuniary damages. *Batterton*, 139 S. Ct. at 2278. Absent a clear historical pattern establishing a different result for the claims at issue here, this Court is obliged to "seek conformity with the policy preferences the political branches have expressed in legislation." *Id.* at 2283 n. 6; *see also Spurlin*, 537 F. Supp. 3d at 1180.

Other courts have reached the same conclusion. For instance, the Honorable Haywood S. Gilliam, Jr. of the Northern District previously issued an order in the matter of *Michael R. Marcus, et al. v. Air & Liquid Systems Corporation, et al.*, U.S.D.C., Northern District of California, Case No. 22-cv-09058-HSG granting summary judgment as to the plaintiffs' claims for punitive damages because such damages are "unavailable under maritime law." In addition, the Southern District of California has also held that punitive damages are unavailable under maritime law. *Spurlin v. Air & Liquid Systems Corp.*, 537 F. Supp. 3d 1162, 1179-81 (S.D. Cal. 2021). In *Spurlin*, after analyzing *Miles*, *Townsend*, and *Batterton*, the Southern District determined that

> the relevant question . . . is whether Plaintiffs have presented historical evidence that non-pecuniary losses such as punitive damages and loss of consortium have been traditionally recoverable under a general maritime law negligence action, and would not offend *Miles*'s command that federal courts should 'promote "a uniform rule applicable to all actions" for the same injury, whether under the Jones Act or the general maritime law.'

Spurlin, 537 F. Supp. 3d at 1180 (citations omitted).

Because the plaintiffs in *Spurlin* presented no such evidence, summary judgment of these claims was appropriate. *Id.* at 1182. The *Spurlin* court concluded, "[t]here being no evidence that punitive damages were traditionally awarded in maritime negligence cases, coupled with the observation that a parallel statutory scheme does not allow for recovery of non-pecuniary losses, the Court finds that Plaintiffs' claims for punitive damages and loss of consortium are unavailable." *Id.* at 1181.