

SAFE HARBOR

A monthly newsletter for the Maritime worker from
The Law Offices of Lyle C. Cavin, Jr.

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Thank you for your maritime service and taking the time to review our Newsletter. We at the Law Offices of Lyle C. Cavin, Jr. hope you find the following information helpful. If you have any questions regarding your rights or remedies please contact us at any time. We are here to serve you.



SUPREME COURT RULES AGAINST SEAMEN!



Resolving a conflict between the 5th and 9th Circuits, the conservative Supreme Court has ruled that seamen are not entitled to punitive damages regardless of how reckless or intentional the misconduct of the shipowners may have been that led to their injury. This decision, entitled *Batterton v. Dutra*, effectively brings to an end a remedy that seamen had on the West Coast and Hawaii for punitive damages in addition to any compensatory damages that may have been sustained. Prior to that ruling both state and Federal law within the 9th Circuit had allowed punitive damages. However, once Federal or state rulings conflict with the Supreme Court they are overruled. This ruling did not eliminate the punitive damage remedy provided by the *Atlantic Sounding v. Townsend* case which permits such a remedy for the wanton or willful failure to provide maintenance and cure.

QUESTION FROM THE BRIDGE

I had a case several years ago and we were able to prove a case for punitive damages against a steamship company due to their reckless maintenance of equipment. I was recently injured again due to the



company's ignoring a safety issue. Has the law now changed for me?

Robert F., Long Beach.

Answer: Robert, unfortunately you no longer have a remedy for punitive damages against your employer or shipowner. The *Batterton* decision eviscerated that remedy. Foolishly, a Southern California lawyer filed a punitive damage case in Federal Court and the Supreme Court eventually agreed with the 5th Circuit holdings and erased many years of this available remedy. Had he filed in state Court this case would never have reached the Supreme Court and his claim for punitive damages could have gone forward. Be careful in selecting your attorney!

About Our Law Firm

For more than four decades, merchant mariners, longshoremen, fishermen and harbor workers plying their trades at sea, on the docks, on our U.S. coastal waters and inland waterways have turned to the maritime law firm of Lyle C. Cavin, Jr. & Associates in Oakland. Today, we are proud to be recognized as one of the preeminent maritime law firms serving injured marine workers nationwide, as well as one of the most successful personal injury litigation firms serving victims of negligence in the San Francisco Bay Area and throughout the West Coast.

Team Approach to Every Personal Injury and Jones Act Claim

When you retain Lyle C. Cavin, Jr. & Associates for a Jones Act injury claim, or personal injury claim, you don't get just one attorney, you get our entire team of dedicated professionals. Our attorneys offer many years of courtroom and negotiated claims settlement experience. We will represent your interests with unwavering dedication, speed and expertise.

Law Offices of Lyle C. Cavin, Jr.

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