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# Big Win For Vessel Owners In Supreme Court Decision, *The Waterways Journal, ft. Gino Zonghetti*

*Gino Zonghetti, co-managing partner of the Kaufman Dolowich & Voluck office in New Jersey, was quoted in an article by David Murray published in The Waterways Journal - June 27, 2019.*

*On June 24, the Supreme Court resolved a split between two judicial circuits by ruling in The Dutra Group v. Batterton that punitive damages are not available in Jones Act cases involving claims of unseaworthiness. The decision, which had been closely watched by the maritime industry, marine insurers and maritime attorneys, was a major win for vessel owners and operators. Several maritime attorneys spoke with The Waterways Journal about the impacts of the Dutra decision.*

*The 6-3 decision was written by Justice Samuel Alito. Justice Ginsburg filed a dissenting opinion in which Justices Breyer and Sotomayor joined.*

*The case began when deckhand Chris Batterton, working aboard a dredge owned by the Dutra Group, had his hand crushed when a hatch cover blew open due to a pressurized buildup of air. Batterton sued his employer, seeking maintenance and cure and remedies under the Jones Act but also alleging negligence and seeking punitive damages with a claim of unseaworthiness.*

*In explaining the court's decision, Alito gave a brief history of maritime law, including how the Supreme Court itself helped contribute to the ambiguity expressed in two conflicting interpretations of punitive damages by the Fifth and Ninth circuits*

*In dealing with maritime matters, the Supreme Court inherits two bodies of law: general maritime law—much of which, like the common law, predates the Constitution and is interpreted and extended by further court decisions; and acts of Congress that bear on maritime matters.*

*In two decisions in the 1940s, Alito said, the Supreme Court expanded unseaworthiness claims from a requirement for "due diligence" into a strict liability claim. In other words, exercising due diligence was no longer enough to protect an owner from claims of unseaworthiness. The new remedy and its supporting doctrine were completely judge-created, and, according to Alito, based on flawed analysis. Even so, it did not negate the insistence of the court in another case, Miles v. Apex Marine, that courts applying remedies for seamen should look first to acts of Congress and conform existing maritime laws to them.*

*In 2009, in Atlantic Sounding Co. v. Townsend, the court said punitive damages could be recovered for failure to provide maintenance and cure, which are payments to injured seamen made under maritime law without regard to fault. Although that ruling did not involve unseaworthiness claims, the Townsend decision led plaintiff lawyers to seek other areas where punitive damages might be sought under maritime law—including claims of unseaworthiness.*

**Reactions**

**Attorney Gino Zonghetti, chair of the maritime practice group at Kaufman Dolowich & Voluck, said: "The case of The Dutra Group v. Christopher Batterton is a significant decision, which brings much needed closure on the issue of punitive damages in general maritime cases involving claims of unseaworthiness. In a rather forceful decision, the Supreme Court made clear that it was confirming what should have been well settled law, that punitive damages were never available under the general maritime law in cases involving claims for unseaworthiness and the Jones Act."**