



October 29, 2007

Supreme Court to Review Damages in Oil Spill

By [DAVID STOUT](#)

WASHINGTON, Oct. 29 — The [Supreme Court](#) agreed today to review some aspects of the worst oil spill in United States history, the 1989 [Exxon Valdez](#) disaster that fouled hundreds of miles of Alaska's shoreline.

The justices will consider the case on grounds that are narrow but nevertheless of great importance: whether maritime law allows for the imposition of punitive damages, an issue on which lower federal courts are divided. The issue is worth \$2.5 billion to the ExxonMobil Corporation. Justice [Samuel A. Alito Jr.](#), who owns a substantial amount of ExxonMobil stock, will not take part in the case.

Since the early morning of March 24, 1989, when the supertanker Exxon Valdez ran aground on Bligh Reef in Prince William Sound, the Exxon Valdez episode has been debated and agonized over in courtrooms, boardrooms and environmental circles.

The tanker leaked some 11 million gallons of crude oil, spoiling some 1,500 miles of coastline and decimating the fish and wildlife populations for years afterward. Hundreds of bald eagles and otters, scores of killer whales and thousands of birds of other species perished, as did untold numbers of salmon, herring, clams, mussels and other forms of aquatic life.

The spill caused personal tragedy and hardship as well as environmental damage. The livelihoods of Alaska fishermen were threatened, and a decade after the disaster the shoreline was still not back to its pre-spill condition. And the ship's skipper, Joseph Hazelwood, became a reviled figure among many environmentalists, even though the calamity that occurred under his command was indisputably an accident.

But an accident that was waiting to happen, those who sued Exxon have argued for years.

"Hazelwood was the only captain and the only officer on board licensed to navigate the tanker through the critical parts of Prince William Sound," some of the many plaintiffs said in one court filing. "Predictably, he was also drunk."

Still feeling the effects of at least five double-strength whiskeys he had downed in waterfront bars, Captain Hazelwood was resting in his cabin as the tanker and its 53 million gallons of oil ran

aground while a tired third mate was on the bridge, the plaintiffs maintained.

A federal court jury found in 1994 that ExxonMobil and its captain were reckless and negligent, and ordered the corporation to pay \$5 billion in punitive damages. Eventually, the award was reduced on appeal to \$2.5 billion by a panel of the United States Court of Appeals for the Ninth Circuit, which held that, while the oil company had committed “reckless misconduct” in placing a known relapsed alcoholic at the helm of the tanker, its misconduct was not so egregious as to warrant the higher punishment figure.

ExxonMobil, the world’s largest publicly traded international gas and oil company, has tried hard to dispel any idea that it is a heartless corporate Goliath. The company says it paid \$300 million immediately to more than 11,000 Alaskan individuals and businesses affected by the spill, another \$2.2 billion for a cleanup from 1989 to 1992 and a further \$1 billion to settle claims by the state and federal government.

The \$2.5 billion was the biggest punitive damages award ever ordered by a federal appeals court, and it represented five times the estimated \$500 million in economic damages suffered by the roughly 32,000 plaintiffs.

“This case has never been about compensating people for actual damages,” a company spokesman, Tony Cudmore, told The Associated Press. “Rather, it is about whether further punishment is warranted.” Mr. Cudmore said the company does not believe that it is.

Lawyers for the many plaintiffs in the case against ExxonMobil have argued for years that the billions already paid by the company amount to just a few weeks’ profits and that it takes an immense judgment to effectively punish such an immense company.

The Exxon Valdez disaster prompted Congress to enact stricter rules for oil tankers. Now, 18 years after the event, the Maritime Law Association, composed of some 3,200 legal professionals and others interested in maritime law, says it is time for the Supreme Court to clarify the question of punitive damages.

Otherwise, the organization says in a brief, it will be difficult for lawyers to advise their clients “about what policies to adopt, and what liabilities to anticipate, for their voyages.”

[Copyright 2007 The New York Times Company](#)

[Privacy Policy](#) | [Search](#) | [Corrections](#) | [RSS](#) | [First Look](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#) |