

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

GREGORY CONDAY

*** CIVIL NO. 07-cv-0882**

VERSUS

*** MAGISTRATE JUDGE HILL**

THE OFFSHORE DRILLING COMPANY

*** BY CONSENT OF THE PARTIES**

AMENDED REASONS FOR RULING AND AMENDED RULING

Relying on the Fifth Circuit's decision in *Guevara v. Maritime Overseas Corp.*, 59 F.3d 1496 (5th Cir. 1995), the Offshore Drilling Company seeks Partial Summary Judgment on plaintiff's claim for punitive damages for failure to promptly pay maintenance and cure. [rec. doc. 48]. The plaintiff, Gregory Conday, has filed opposition. [rec. doc. 61].

On June 25, 2009, the Supreme Court abrogated the *Guevara* decision holding that a seaman is entitled, as a matter of general maritime law, to seek punitive damages for his employer's alleged willful and wanton disregard of its maintenance and cure obligation. *Atlantic Sounding Co., Inc. v. Townsend*, - - U.S. - -, 129 S.Ct. 2561 (2009). In so holding, the Court found that punitive damages have long been an accepted remedy under general maritime law, and that neither *Miles v. Apex Marine Corp.*, 498 U.S. 19, 111 S.Ct. 317, 112 L.Ed.2d 275, nor the Jones Act altered this understanding; thus, punitive damages for the willful and wanton disregard of the maintenance and cure obligation remain available as a matter of general maritime law. Accordingly,

The court's prior Ruling on the defendant's Motion for Partial Summary Judgment [rec. doc. 88] is **vacated**.

The defendant's Motion for Partial Summary Judgment on plaintiff's claim for punitive damages for failure to promptly pay maintenance and cure [rec. doc. 48] is **DENIED** as the Offshore Drilling Company is not entitled to partial summary judgment as a matter of law.

Signed this 7th day of October, 2009, Lafayette, Louisiana.



C. MICHAEL HILL
UNITED STATES MAGISTRATE JUDGE