

American Maritime Cases

LAWRENCE GAMBLE, JR., ET AL.

v.

HARVEY WILLIAMSON, ET AL.Alaska, Superior Court, First Judicial District at Sitka
June 10, 2009

No:1S1-07-88

COLLISION -- 2321. Pennsylvania Rule (Statutory Violations) -- DAMAGES -- 12. Personal Injury, Illness, and Death -- EVIDENCE -- 115. Presumptions, Continuing Presumptions -- NEGLIGENCE -- 13. Causation.

Plaintiff had a constellation of similar medical problems before and after her injury on an Alaska ferry, for which shipowner conceded its negligence. She proved entitlement to damages for a limited period after the injury. However, she may not use the *Pennsylvania* Rule to require shipowner to prove which of her post-injury medical problems could not have been caused by the accident.

David Graham *for Hunter*W. L. Rivers Black III and Chris P. Reilly (Nicoll Black & Feig) and Susan D. Cox, Asst. Attny. Gen. *for Defendants*

David V. George, J.:

This matter was tried to the Court, without a jury, from 2/3/2009 until 2/18/2009. The undersigned judge presided at the trial.

Plaintiff **DorisHunter** appeared personally at the trial and through her attorney of record, David Graham, Graham Law Firm. Defendants State of Alaska, Captain W. Harvey Williamson III, and Chief Mate William Petrich appeared personally at trial and through their attorneys of record, Chris P. Reilly, Nicoll Black & Feig and Susan Cox, Assistant Attorney General, State of Alaska.

The claims presented at trial for adjudication were as follows:

1. A claim for negligence under general maritime law against the State, Captain Williamson and Mr. Petrich.
2. A claim for punitive damages under general maritime law against Captain Williamson and Mr. Petrich,

Following trial, the court took the matter under advisement. On April 21, 2009 the court announced its decision and made certain findings of fact and conclusions of law orally on the record. The *2523 Court makes the following written Findings of Fact and incorporates by reference its earlier oral findings:

FINDINGS OF FACT**A. The Grounding.**

1. At approximately 10:00 a.m. on 5/10/2004, the Alaska State Marine Highway System ferry M/V *LeConte* (“*LeConte*”) grounded on Cozian Reef, a known and charted hazard near Sitka. The *LeConte* was traveling from Angoon, Alaska to Sitka, Alaska on a calm and clear day at the time.
2. Chief Mate Petrich was a qualified and experienced conning officer on watch on the *LeConte* bridge at the time of the grounding. He was in charge of navigating (steering) the vessel.
3. Captain Williamson was a qualified and experienced master, who, at the time of the grounding, was on the *LeConte* bridge attending to administrative duties unrelated to the navigation of the vessel.
4. Prior to the grounding, Mr. Petrich obtained Captain Williamson's permission to transit Otstoa Pass, which was an accepted alternate route through Peril Strait while enroute to Sitka.
5. The grounding occurred after the *LeConte* completed a “stern-on” turn, which involved a port-to-port passage past a tug and barge and changing course to port to pass behind the tug and barge to enter the Pass.
6. The *LeConte* ran aground about a minute after

clearing the stern of the tug and barge.

7. At the time of grounding, Mr. Petrich was not sure of his position and was trying to “fair up” the *LeConte* on a distant marker and achieve a course allowing a safe transit of the Pass. Neither Mr. Petrich nor Captain Williamson noticed a different navigation marker which would have indicated that they were near the reef. *2524

B. The Passenger Evacuation.

8. After the grounding, Captain Williamson ordered the passengers to evacuate using the *LeConte's* starboard and port lifeboats.

9. Captain Williamson directed Second Mate John O'Brien to assume the duties of officer in charge of the lifeboat lowering and passenger evacuation.

10. Plaintiff **DorisHunter** was a *LeConte* passenger on 5/10/2004 and evacuated the *LeConte* via the starboard lifeboat.

11. During the course of lowering the starboard boat using a gravity davit system, the lifeboat became temporarily hung up on the *LeConte* sponson.

12. A sponson is a linear protuberance (like a narrow shelf) that sticks out from the hull above the waterline.

13. As a result of the inboard side of the life boat being temporarily hung up on the sponson, the outboard side of the lifeboat began to tip to the side and down. When the lifeboat worked free of the sponson it rocked and swung away from, and then back toward I, the hull banging on the hull several times above the waterline.

14. The lifeboat's movements jostled the passengers.

15. The passengers were subsequently transferred to other vessels that transported the passengers to Sitka, where they arrived the evening on 5/10/2004.

C. Admission of Negligence.

16. Prior to trial, Defendants admitted the following:

Captain Williamson and Mr. Petrich committed navigational errors -- failing to make adjustments to stay on an intended track to account for a passing tug and barge, failing to observe navigational aids, and failing to observe that the *LeConte* was off of her intended track that led to the grounding of the *LeConte* on May 10, 2004. As vessel owner, the State was responsible for the navigational errors of Captain Williamson and Mr. Petrich. *LeConte* crewmembers failed to warn passengers seated in the *2525 starboard lifeboat to hold on or to brace themselves as the lifeboat was lowered over the vessel sponson. As vessel owner, the State was responsible for the crewmembers' failures to warn. Defendants intend that these admissions be narrowly construed and limited to only the acts specified above.

17. Beyond those acts and omissions conceded by the Defendants, Ms. Hunter did not prove the Defendants committed additional negligent acts or omissions.

D. Ms. Hunter's Pre-Existing Medical Conditions.

18. Prior to 5/10/2004, Ms. Hunter had a very complex medical history that included chronic, progressive and acute medical issues.

19. Ms. Hunter's medical records indicate a constellation of complaints in the decade before the grounding.

20. Ms. Hunter suffered from degenerative disc disease in her lower back which preceded the grounding by years. The condition was chronic and degenerative. Ms. Hunter had received treatment for this condition prior to the *LeConte* grounding.

21. Other physical conditions that were diagnosed both before and continued after the grounding included: hypertension, abdominal pain, rheumatoid arthritis, chronic joint pain, gastroesophageal reflux disease, right adrenal mass, diverticulitis, gastrointestinal bleeding, recurring headaches and chronic back pain.

22. Ms. Hunter complained to physicians both before and after grounding about back pain and abdominal pain and was treated by injections and medications, such as Vicodin, Toradol, and Naproxin.

23. Ms. Hunter's medical records indicate she presented herself to doctors with complaints of back pain in 1995, 1998, 1999, 2000, 2001, 2002, 2003, and 2004 and that she also complained of abdominal pain, radiating pain, sciatica, and kidney pain before 5/2004 when the *LeConte* grounded. *2526

24. Ms. Hunter suffered several specific incidents of trauma to her back prior to the grounding, including a 1995 beating in which she suffered back bruises, low back soft tissue injury, sciatic tenderness and decreased range of motion in her back.

25. Ms. Hunter suffered another assault and back strain in 1998.

26. Ms. Hunter was diagnosed with chronic low back pain in 2000.

27. Ms. Hunter was diagnosed with "low back pain of unknown origin" in 2001.

28. Ms. Hunter complained of lumbosacral pain and spasms, lumbosacral strain, and low back pain in 2002.

29. Ms. Hunter complained of low back pain with radiation to her leg in 2003.

30. It was not uncommon for Ms. Hunter to complain of both abdominal pain and low back pain in combination before the grounding.

31. Ms. Hunter's significant complaints recorded in her medical record before the grounding included: 7/1995 kidney complaints; 8/1995 persistent lower back pain ("LBP"); 2/25/1998 LBP, sciatica; 3/3/1998 LBP; 12/9/1998 LBP; 12/29/1998 back strain; 5/26/1999 abdominal pain and LBP; 7/9/1999 abdominal and back pain. 7/13/1999 abdominal and back pain; 2/27/2000 abdominal pain; 3/15/2000 abdominal pain; 4/5/2000 back pain and nausea; 9/2000 back pain, headaches, malaise; 5/25/2001 abdominal and back pain; 6/10/2002 back pain; 6/17/2002 abdominal and back pain; 7/31/2002 LBP; 1/3/2003 abdominal pain; 3/2003 LBP (two occasions); 8/26/2003 abdominal pain and LBP; 1/23/04 abdominal and back pain; and, 2/17/2004 LBP and GI bleeding.

32. Ms. Hunter's pre-grounding medical history is significant because it is eerily similar to the history observed and documented after the grounding.

E. Ms. Hunter's Post-Grounding Medical Treatment.

33. After the grounding, Ms. Hunter saw Dr. Eliot Bruhl at Southeast Alaska Regional Health Consortium Mount Edge *2527 combe Hospital ("SEARHC") on 5/14/2004 and complained of LBP.

34. However, Ms. Hunter was hospitalized for abdominal complaints just a few days later on 5/16/2004. These complaints were of a long-standing nature.

35. Ms. Hunter made a LBP complaint to Dr. Craig Boyle of Boyle Chiropractic on 5/20/2004.

36. Ms. Hunter complained of abdominal pain to SEARHC physicians on 5/21 and 6/8/2004.

37. Ms. Hunter's obtained a refill for a prescription of Vicodin she was taking for rheumatoid arthritis on 6/30/04.

38. Ms. Hunter was treated for LBP on 7/28/2004.

39. Ms. Hunter was treated for headaches on 8/1/2004 and abdominal pain on 8/9, 8/11, 8/12, and 9/8/2004.

40. The SEARHC Opioid Review Committee considered and approved Dr. John Baciocco's recommendation that Ms. Hunter's pain complaints be treated without opioid medications on 8/26/2004. Dr. Baciocco testified at trial he was concerned, among other things, with drug-seeking behavior.

41. Ms. Hunter was treated at SEARHC for LBP, abdominal pain and chronic degenerative disc disease on 12/1/2004. No other back treatment was noted in the record since July 2004.

42. Ms. Hunter sought a second opinion concerning her back complaints from Dr. Robert Thomas of Jordan Creek Family Practice in Juneau on 12/7/2004 at which time Dr. Thomas concluded that her back was within normal limits and that he could not support her

efforts to file a claim against the *LeConte*.

43. There was no medical testimony that Ms. Hunter's back pain was caused by the *LeConte* grounding, but there was medical testimony that her back pain was pre-existing and was not caused by the grounding,

F. Ms. Hunter's Evidence Concerning Special Damages.

44. The evidence in the record concerning Ms. Hunter's medical expense included the following information: *2528 adjustments:\$0,000.00-\$0,000.00Dr. ThomasState payments

DateAmountAdjustedRecipientState payments

5/14/2004\$295.09SEARHC\$140.04

5/20/2004\$430.00Dr. Boyle\$430.00

5/24/2004\$0Dr. Boyle

6/30/2004\$155.00 -- INUS\$155.00SEARHC

5/2004\$20Taxi

7/28/2004\$1,823.06 -- INUS\$1,823.06SEARHC

12/7/2004\$180.00Dr. Thomas

2/8/2004\$3,475.00 -- INUS\$3,475.00SEARHC Total amount after adjustments: \$925,09^{FN1} \$570,04 45. The State of Alaska had previously paid medical bills for Ms. Hunter in the amount of \$570.04.

^{FN1}. In the oral findings announced by the court on April 21, the total amount of medical bills caused by the grounding before offset for prior state payment was given as \$1,060. That figure should have been \$1,080 and the announced figure was the result of a mathematical error. However, the court's oral findings also failed to discount the \$155 charge of June 30, 2004 which was adjusted to zero. The court also did not give Ms. Hunter credit for the additional nine cents of the May 14 bill by Dr. Bruhl. These two

facts account for the lower medical expense figure in the written findings.

46. Subtracting the State's prior payments from Ms. Hunter's medical bills yields a total as yet unpaid amount of \$355.05.

47. Ms. Hunter presented no medical testimony to support an award of future medical expenses.

48. Ms. Hunter was not working at the time of the grounding.

49. A few months before the grounding, Ms. Hunter sought the assistance of her treating physician at SEARHC to support her claim to the Social Security Administration of permanent disability and inability to work due to chronic joint pain.

50. Ms. Hunter worked after the grounding on the fishing vessel *Polaris* in 2006 and fishing vessels *Polaris* and *Safari* in 2007 and testified that the work did not affect her back. *2529

51. To the extent she had back pain while fishing, the problems were the result of her pre-existing chronic back problems.

52. Ms. Hunter presented no evidence of lost earnings or lost earning capacity.

Based on the Court's findings, the Court makes the following Conclusion of Law:

CONCLUSIONS OF LAW

51. [sic]This is an admiralty or maritime claim within the jurisdiction of the Court. Generally, "[w]ith admiralty jurisdiction comes the application of substantive admiralty law." *East River S.S. Co. v. Transamerica Deleva Inc.*, 476 U.S. 858, 865, 1986 AMC 2027, 2032 (1986); *Barber v. New England Fish Co.*, 510 P.2d 806, 808 (Alaska 1973) ("Alaskan court must apply the same substantive law as a federal court would when dealing with a federal maritime tort.").

52. [sic]Under *Kermarec v. Compagnie Generale Transatlantique*, 358 U.S. 62, 1959 AMC 597(1959), the standard of care applicable to vessel owners and seaman is "reasonable care under the circumstances."

[358 U.S. at 632, 1959 AMC at 602](#). Although *Kermarec* involved a vessel guest as opposed to a passenger, courts applying maritime law apply the general maritime law's "reasonable care under the circumstances" standard of care in vessel passenger tort cases, *See, e.g., In re Catalina Cruises, Inc., 1998 AMC 1282, 1285, 137 F.3d 1422, 1425 (9 Cir. 1998)*.

53. Given the concession of negligence in this case, the primary issue for trial was: To what extent were the injuries claimed by Ms. Hunter caused by the negligent acts proven in the case.

54. Where the conclusion of medical causation of an injury is not one within common knowledge, expert testimony may provide a sufficient basis for it. Expert evidence may be required to establish the causal connection between the accident and some item of physical or mental injury unless the connection is a kind that would be obvious to laymen, such as a broken leg from being struck by an automobile. 4 F. *2530 Harper, F. James, O. Gray, *The Law of Torts* s 20.2 (2d ed. 1986) (footnote omitted); *see also Strok v. FIT Northern Jaeger, 1993 AMC 1290, 1992 WL 503590, *4 (W.D. Wash.)* (1992) ("causation becomes extremely tenuous and difficult to determine through common experience when such symptoms prevail for over a year especially when several doctors and an exhaustive battery of medical tests failed to establish the cause"); *Cherry v. U.S., 2007 AMC 2528, 2528, 2007 WL 3166773, *3+ (W.D. Wash. 2007)* (subjective complaints of back pain with no objective basis required expert medical testimony on causation).

55. Ms. Hunter's claim to have suffered lower back pain in the immediate aftermath of the grounding is not a claim that requires expert medical testimony to establish. Ms. Hunter's testimony regarding the post-grounding pain is corroborated in the record. She sought treatment for lower back pain on 5/14/2004. The medical testimony in the case, however, was that Ms. Hunter's injury, if any, should have been healed within a couple of weeks. The Court concludes that Ms. Hunter has satisfied the burden of proving, by a preponderance of the evidence, that she was suffering from pain and in distress as a result of the grounding of the *LeConte* until on or about 7/30/04. She has not proven by a preponderance of the evidence however that the negligence of defendants caused any long-term or chronic condition after that date.

56. Ms. Hunter is entitled to recover her medical expenses incurred between 5/14/04 and 7/30/04 related to her back pain. However, for medical expenses identified in the findings of fact with an adjusted balance of \$0, it would be unfair to award Ms. Hunter damages based on an expense for which she neither received a bill nor owed a balance. An element of Ms. Hunter's damages is the \$355.05 in unpaid medical bills and expenses.

57. As explained above, a plaintiff does not necessarily have to have a physician testify as to what caused her back pain immediately after a grounding event. In this case, Ms. Hunter *2531 established the necessary causation for her back pain prior to 7/30/04. But, under the circumstances of this case, Ms. Hunter is not competent to report on her conditions beyond 7/30/04. And, even if Ms. Hunter were competent, the Court cannot accept what she believes to be the cause of her pain and medical complaint; for a number of reasons: First, her complaints of pain were complex, of long standing nature and similar both before and after the grounding. Her complaints of pain involved a multitude of conditions treated by a number of specialists. Some of these pre-existing conditions were degenerative and/or progressive. Ms. Hunter is a terrible reporter of her medical history; on numerous occasions documented in her medical records, she gave inaccurate medical histories to her treating physicians. There was also ample concern expressed in her medical records by some of her physicians that some of her pain complaints were the result of seeking secondary gain, primarily in the form of opioid medication. Finally the medical testimony suggested her continuing complaints were inconsistent with the injury she claimed to have sustained.

58. Ms. Hunter failed to establish by a preponderance of the evidence any liability for medical conditions occurring after 7/30/2004, although that date is not necessarily the cut-off date for Defendants' obligations for medical expenses. The medical expenses awarded include the unreimbursed cost of her treatment by Dr. Thomas on 12/1/2004. As the court indicated it was not unreasonable for plaintiff to seek a second opinion from Dr. Thomas or undergo MRI studies after July 30, 2004 to rule out a diagnosis. Plaintiff complained that she could not get satisfaction from SEARHC and thus went to Dr. Thomas. However, neither Dr. Thomas's examination nor the

MRI studies supported plaintiffs claims against defendants. Dr. Thomas found the examination within normal limits and expressly declined to support Ms. Hunter's claim against the *LeConte*. The MRI studies showed a normal back except for evidence of some degenerative disc disease which *2532 all medical providers who offered an opinion agreed that it was a long standing condition which preceded the grounding by years.

59. Ms. Hunter failed to establish by a preponderance of the evidence any liability for any future medical expenses or treatment related to the *LeConte's* grounding.

60. Ms. Hunter has not proved there were any lost wages as a result of grounding. She has not proved any future loss of earning capacity as a direct and proximate result of the grounding.

61. There is no doubt that the average passenger in the starboard lifeboat was nervous and scared when the boats were lowered. It was a frightening event when the lifeboat momentarily hung up and then lurched and swung after it was free of the sponson. But it was also a very temporary event. All passengers, including Ms. Hunter, were delivered to their Sitka destination that same day. Ms. Hunter is entitled to general damages for emotional distress and inconvenience (including having to attend the medical treatment on 12/7/2004 and MRI on 2/8/2005) in the amount of \$2,500.

62. Dr. Aleksandra Zietak opined that any injury suffered by Ms. Hunter as a result of the grounding healed within a matter of weeks. The Court awards Ms. Hunter pain and suffering for a period of several months until 7/30/04. Ms. Hunter is entitled to general damages for pain and suffering and loss of enjoyment of life through 7/30/04 in the amount of \$7,500. The total award for all general damages is \$10,000.

63. Ms. Hunter has failed to prove entitlement to any future general damages.

64. Although rarely imposed, punitive damages are an available remedy in general maritime actions where a defendant's "intentional or wanton and reckless conduct amounted to a conscious disregard of the rights of others." *CEH Inc. v. F/V Seafarer*, 1996

AMC 467, 472, 70 F.3d 694, 699 (1 Cir. 1995) (punitive damages awarded for intentional and malicious destruction of 134 lobster traps); *2533 *Exxon Shipping Co. v. Baker*, 554 U.S. , 128 S. Ct. 2605, 2621, 2008 AMC 1521, 1535 (2008) ("The prevailing rule in American courts also limits punitive damage to cases of "enormity," where a defendant's conduct is "outrageous," .. owing to "gross negligence," "willful, wanton, and reckless indifference for the rights of others," or behavior even more deplorable.") (citations omitted). Punitive damages may be awarded as a result of outrageous conduct and are not awarded for mere inadvertence, mistake, errors in judgment, or the like, which are ordinary negligence.

65. Under federal maritime law, the plaintiff's burden of proof for punitive damages is by a preponderance of the evidence.

66. To establish entitlement to punitive damages, Ms. Hunter was required to prove (1) intentional or willful conduct; (2) reckless conduct; or (3) gross negligence by Captain Williamson or Chief Mate Petrich. The State is not liable for punitive damages.

67. There was no allegation of or proof of intentional or willful conduct in this case.

68. Recklessness requires a high degree of risk of harm (extreme risk) and applies when one proceeds to act (or fails to act) in face of that risk in conscious disregard or indifference to that extreme risk. Reckless conduct is distinguished from simple negligence in that it requires a conscious choice to encounter the extreme risk. The Court does not find that circumstance here. At the time of grounding, Mr. Petrich was trying to put the vessel in a safe position -- he was trying to avoid an unsafe situation. Captain Williamson was simply not paying attention. The stern-on turn executed shortly before the grounding was a proper maneuver. There was a factual disagreement about whether an extra lookout should be posted on the bow and whether the engine room needed to be put on stand-by. Pilots variously testified that one or both of the conditions were or were not required when transiting Otstoa Pass. There was no dispute that at the time of the maneuver the sky was clear, the sea was calm, the Captain *2534 was on the bridge and permission for the route had been received and the route to be undertaken was an accepted well-marked route. It has not been shown to a preponder-

ance of the evidence that defendants acted recklessly.

69. Gross negligence may also support an award of punitive damages under maritime law. The parties agreed that gross negligence under maritime law is the failure to exercise even the slightest degree of care. Captain Stoller offered evidence on this issue as an expert on behalf of Ms. Hunter. The Court has discounted his testimony. His most recent experience as a pilot was in Los Angeles/Long Beach Harbor in 1994. He admitted that he was not a pilot in S.E. Alaska and did not travel these waters. He disputed that a trained pilot should navigate these waters relying on visual references under the circumstances of May 10, 2004. That statement was contradicted by almost every other witness who testified. The court does not find Capt. Stoller's opinions in this regard credible.

Gross negligence was not shown in this case. Captain Williamson approved the Otstoa Pass route ahead of time. The weather was clear. The seas were calm. Mr. Petrich was an experienced Chief Mate and conning officer. Captain Williamson was on the bridge at the time of the turn into Otstoa Pass, which was an acceptable alternate route. Even though not required, Chief Mate Petrich contacted the approaching tug and barge to advise of his approach and the anticipated maneuver before undertaking a stern-on turn behind the barge. The stern on turn was an appropriate maneuver. After the turn was complete, Mr. Petrich was attempting to line up on the marker in the Otstoa channel when he ran aground. Mr. Petrich failed to look for and did not see the marker in the immediate area of the reef. While the collective failure of Mr. Petrich and Capt. Williamson to appreciate the vessel's true position led to the vessel's grounding, that inattentiveness did not rise above ordinary negligence.

70. With respect to the boat lowering, Captain Williamson properly delegated the task to the deck officer. Ms. Hunter presented no evidence to the contrary. The crew may not have *2535 anticipated the lifeboat would momentarily hang up on the sponson as it was being lowered; but the crew was properly trained and certified for the maneuver. Unfortunately the vessel was listing to port at that time thus complicating the starboard boat lowering process. Once hung up, the crew undertook to release the lifeboat, and indeed it was lowered to the water, albeit with

some swinging back and forth. Ms. Hunter failed to prove entitlement to punitive damages based on the boat lowering episode.

71. For the first time, Ms. Hunter raised the application of the "*Pennsylvania* Rule" in post-trial pleadings. Ms. Hunter argues that the Defendants' negligence in the grounding and evacuation shifts the burden to the Defendants to disprove that any of Ms. Hunter's claimed injuries were caused by the negligence. Ms. Hunter's argument and proffered reading of the Rule makes no sense to the Court. The Rule cannot be used to create a presumption that every injury of which the Plaintiff complains is presumed to be the responsibility of Defendant. Such a reading would shift the burden to Defendant to prove any medical condition a plaintiff wished to assert was not caused by the grounding or evacuation. Applying a presumption in such a manner has nothing to do with encouraging safe navigation which is the purpose of the *Pennsylvania* Rule. Such a presumption would also promote spurious claims seeking compensation for wholly unrelated medical conditions in the aftermath of any statutory violation. Plaintiff is in the best position to prove the causal relationship between an injury or condition and an alleged act of negligence. While a defendant may well be presumed to have caused the accident complained of, the presumption should not act to relieve plaintiff of the obligation to prove that the medical conditions or injuries for which compensation is claimed were indeed the result of the accident the defendant is presumed to have caused. An application of the Rule as plaintiff urges could be easily abused and would not promote the purpose for which the Rule was adopted. *2536

72. Under federal maritime law, the entitlement to, and rate of, prejudgment interest awarded is at the trial court's discretion. In this case, the Court awards prejudgment interest from the date Ms. Hunter's complaint was filed, which was 4/23/2007. The purpose of prejudgment interest is to protect the plaintiff from loss of use of money. A defendant cannot avoid loss of use of money until a claim has been made. In this case, there is nothing in the record to indicate that Ms. Hunter made a written claim prior to the Complaint. Prejudgment interest is awarded at 6.67%, which is the average of the annual state rates of prejudgment interest in Alaska between 2004 and 2009.

73. In summary, the special damages are \$355.05 and the general damages are \$10,000 for a total of \$10,355.05. No wage loss is awarded. No future or punitive damages are awarded. Pre-judgment interest at 6.67% is awarded from 4/23/07.

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Alaska, 2009

Gamble v. Williamson

2009 WL 4876218, 2009 A.M.C. 2522

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