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Exxon vs. Alaskans as high court takes on oil spill case

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- **NEW:** Justice Ginsburg: "Exxon knew that this captain had a severe alcohol problem"
- Exxon fights payment awarded fishermen, businesses, Native Americans after spill
- Exxon Valdez supertanker dumped 11 million gallons of oil into Alaska sound in 1989

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WASHINGTON (CNN) -- Nearly 20 years after one of the most infamous environmental disasters scarred Alaska's Prince William Sound, the Supreme Court stepped nearer Wednesday to perhaps providing a measure of closure for the seemingly endless litigation over the Exxon Valdez oil spill.



Tugboats pull the Exxon Valdez off Bligh Reef in Alaska's Prince William Sound on April 5, 1989.

The justices heard arguments on whether a \$2.5 billion punitive damages award against the energy giant for its role in the 1989 maritime accident was excessive.

The justices appeared divided over whether to reduce the amount the company would have to pay as a result of the class-action lawsuit.

They appeared even more split over whether Exxon itself should be held liable for what a jury said were negligent actions by the ship's captain, Joseph Hazelwood.

"Exxon knew that this captain had a severe alcohol problem," said Justice Ruth Bader Ginsburg, summarizing the trial jury's findings. "And yet they let him stay on voyage after voyage and did nothing about it."

"I doubt a captain is high enough" in the corporate executive command to place the entire company at risk for such lawsuits, countered Justice Antonin Scalia.

Oral arguments stretched 30 minutes beyond the usual one-hour session, indicating the high stakes involved.

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The case has been through courts in a nearly two-decade dispute over Exxon's legal and financial culpability in the infamous maritime environmental disaster.

Eleven million gallons of crude oil spilled into Prince William Sound and the nearby Gulf of Alaska, at the southern end of the state, after the supertanker Exxon Valdez hit an offshore reef.

The slick soaked 1,200 miles of coastline and destroyed countless birds, marine animals and beaches.

To the Alaskans of the Chugach region, the waters of Prince William Sound were a timeless source of what once was a thriving subsistence culture. [Watch how spill "continues to haunt" Alaskans »](#)

Exxon and the plaintiffs used different arguments in the public session before the justices when citing Hazelwood's actions, in efforts to boost their respective cases.

The issue is whether, based on past high court precedent limiting punitive awards, the judgment was too high. The company argues it should not have to pay any damages, and that the case has dragged on too long.

Special maritime laws govern these kinds of disputes, and previous such cases will be important benchmarks when the justices grapple for a ruling.

Lawyers for the plaintiffs claimed the company has deep financial pockets, and noted in their appeal that



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even a multibillion-dollar judgment amounts only to "barely more than three weeks of [Exxon's](#) net profits."

Alaska residents who gathered at the high court Wednesday noted that the Texas-based company reported an annual profit last year of \$40.6 billion, a record for a U.S. firm.

Exxon Mobil argued the federal Clean Water Act does not allow for punitive damages for oil spills and other open water environmental incidents similar to the Exxon Valdez.

And they say federal maritime law prevents company owners from being held liable for whatever personally negligent conduct by the captain or crew.

The high court has generally tried to limit punitive damages that are deemed "excessive."

Last term, it threw out a \$79 million award to an Oregon smoker's family who claimed tobacco giant Philip Morris contributed to his death by cancer. The justices, in their divided ruling in that case, said in most cases punitive damages should match "actual" damages.

In Wednesday's debate over whether to reduce the punitive damages against Exxon, Justice David Souter suggested an amount twice what the firm initially paid to compensate those suffering economic loss, which was about half a million dollars.

Walter Dellinger, representing Exxon, said the company has suffered enough and spent billions to restore the water quality and beaches. "This was not an intentional act. It was not malicious. The company did not stand to make one dollar of profit," he said.

But Souter took issue with that. He said comparing civil penalties for environmental damage and individual economic harm is like "comparing apples with oranges."

Jeffrey Fisher, representing the plaintiffs, said his clients "received only \$15,000 for having their lives and livelihood destroyed and haven't received a dime of emotional distress damages."

Exxon still argues it remains "hotly contested" whether Hazelwood was actually drunk at the time of the incident on the night of March 23-24, 1989, and that a state court later cleared him of operating a vessel while intoxicated.

Justice Anthony Kennedy seemed of two minds on whether Hazelwood's actions leave Exxon legally vulnerable. "The captain has this huge vessel," he said minutes into the arguments. "He can decide when it leaves. He decides the course."

But the jurist later questioned whether Hazelwood was in fact a "managerial agent" of Exxon "because he was not entitled to set aside the (company) policy on intoxication."

Chief Justice John Roberts, along with Scalia, appeared more sympathetic toward the company. "I don't see what more a corporation can do" when the captain breaks the rules in a negligent manner, he said. "Other than say here is our policies, and try to implement them."

Justice Samuel Alito has withdrawn from deciding the case. Although no reason was given, financial disclosure reports indicated the newest justice had owned substantial amounts of Exxon stock.

Without him, the [high court](#) could wind up deadlocked 4-4, which would leave in place the lower court ruling favoring the Alaska residents.

Travis Vlasoff is a native Chugach fisherman from Tatitlek, Alaska. Generations from his tribal village relied on a subsistence lifestyle from Prince William Sound and the lower Cook Inlet. He says the long legal fight has taken a financial and emotional toll on his family and friends.

"It's very difficult to advance the healing process without any sort of finality," he told CNN after the arguments. "Each turn has reopened long, deep wounds within the community and with individuals."

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The Exxon Valdez is still on the high seas, now named the S/R Mediterranean, but is banned from Prince William Sound.

The case is Exxon Shipping Co. v. Baker (07-219). A ruling is expected by late June. [E-mail to a friend](#)

CNN Supreme Court Producer Bill Mears contributed to this report.

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