

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2008 CA 2391

CECILIA BENNETT WIFE OF/AND ERIC BENNETT

VERSUS

BUSINELLE TOWING CORPORATION

Judgment Rendered: June 12, 2009.

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On Appeal from the  
18th Judicial District Court,  
In and for the Parish of Iberville,  
State of Louisiana  
Trial Court No. 63812

Honorable Alvin Batiste, Jr., Judge Presiding

\* \* \* \* \*

Jack W. Harang  
Metairie, LA

Attorney for Plaintiffs/Appellants,  
Cecilia Bennett and Eric Bennett

Randell E. Treadway  
Alan Zaunbrecher  
Metairie, LA

Attorneys for Defendant/Appellee,  
Businelle Towing Corporation

\* \* \* \* \*

BEFORE: CARTER, C.J., WHIPPLE AND DOWNING, JJ.

Handwritten signatures and initials in the left margin, including what appears to be 'BJR', 'CBB', and 'ERB'.

**CARTER, C. J.**

This appeal raises the single legal issue of whether an injured seaman's spouse can recover damages for loss of consortium in a suit brought under general maritime law. This court has considered the issue in prior cases and concluded that no claim for loss of consortium and society exists under the Jones Act, which is construed to permit only pecuniary damages. See **Dixon v. Cliffs Drilling Co.**, 633 So.2d 277, 279 (La. App. 1 Cir. 1993); **Collins v. Texaco, Inc.**, 607 So.2d 760, 767-768 (La. App. 1 Cir. 1992).

In **Miles v. Apex Marine Corp.**, 498 U.S. 19, 32-33, 111 S.Ct. 317, 325-326, 112 L.Ed.2d 275 (1990), the Supreme Court held that in an action for the wrongful death of a seaman, whether under the Death on the High Seas Act, the Jones Act, or general maritime law, recovery is limited to pecuniary damages, thus precluding recovery for loss of society. **Miles** has been interpreted to preclude nonpecuniary damages in cases involving non-fatal injuries as well. **Collins**, 607 So.2d at 767-768. In admiralty cases, **Miles** limits recovery to pecuniary damages. See **Scarborough v. Clemco Industries**, 391 F.3d 660, 668 (5 Cir. 2004), cert. denied, 544 U.S. 999, 125 S.Ct. 1932, 161 L.Ed.2d 772 (2005). Thus, the spouse of an injured seaman has no cause of action for loss of society/consortium under general maritime law. **Murray v. Anthony J. Bertucci Construction Co., Inc.**, 958 F.2d 127, 132 (5 Cir.), cert. denied, 506 U.S. 865, 113 S.Ct. 190, 121 L.Ed.2d 134 (1992); **Michel v. Total Transportation Inc.**, 957 F.2d 186, 191 (5 Cir. 1992).

We reiterate this court's prior holdings that an injured seaman's spouse has no claim for loss of consortium.<sup>1</sup> Accordingly, the judgment of the trial court that sustained the peremptory exceptions raising the objections of no cause of action and no right of action and dismissed the claims of Cecilia Bennett is affirmed in accordance with URCA Rule 2-16.2.A(2), (4) & (6). Costs of this appeal are assessed to Cecilia Bennett and Eric Bennett.

**AFFIRMED.**

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<sup>1</sup> We are not persuaded by appellants' arguments to the contrary. The cases of **Shields v. Baker Hughes, Inc.**, 03-816 (La. App. 3 Cir. 2/4/04), 866 So.2d 338, and **Warren v. Sabine Towing & Transportation Co., Inc.**, 01-0573 (La. App. 3 Cir. 10/30/02), 831 So.2d 517, writs denied, 02-2926, 2927, 2928 (La. 2/14/03), 836 So.2d 116, 117, are factually distinguishable.