

## Basic Facts

The Plaintiffs in this case are Bill and Mary Delaney, formerly of Midland, Texas , now residing in Albuquerque, NM. The defendant is Ampower Oil Company, an oil and gas producer based in Houston.

At all times pertinent to this case Bill was employed by Fracturing Services, Ltd, an oil services company which provides fracking services to owners of oil wells. “Fracking” or “fracturing,” is a process which uses high pressure fluids and sand to create cracks in oil-containing shale rock. Often times such rock surrounds the boring hole and shaft of an oil well, many thousands of feet below the surface of the earth. This fracturing process allows oil to seep through the rock and into the boring shaft of the well, so it can be pumped to the surface.

On February 2, 2007 Bill was working on a fracturing job at a well site in Texas owned and operated by defendant Ampower. He alleges that a potential gas leak was discovered during the fracking project, that the leak was timely reported to the Ampower supervisor on site, that the supervisor ignored the information and ordered the fracking to continue, and that as a result a powerful explosion occurred which engulfed Bill Delaney.

Both sides agree that the explosion was particularly damaging to Bill. He had served as a United States Marine in Iraq and Afghanistan. During his tours of duty he survived several horrifying mortar assaults. He also witnessed numerous roadside bomb attacks. Bill witnessed the death and dismemberment of several close friends during these explosive attacks. Doctors at the Veterans Administration have testified that when Bill was honorably discharged from the Marines he was suffering from a serious and chronic case of Post Traumatic Stress Disorder. He spent time in treatment to become functional, and was able to function well with the help of medications. However, Bill alleges that his PTSD came roaring back to life following the oil field explosion on February 2<sup>nd</sup>. Both sides agree that the oil field explosion has left Bill unemployable. His very lucrative career in the oil field career was over, with a resulting loss of earnings in excess of nearly \$4 million.

The Delaneys also allege that Ampower’s decision NOT to shut down the well in the face of a possible leak was motivated by corporate greed, specifically by the desire to hurry the well into profitable production. They say that Ampower recklessly disregarded the safety of all the people working on this site. As a result, the Delaney’s also seek punitive damages against Ampower, damages that would punish the oil producer and make it an example to other companies in the same situation.

For its part Ampower concedes that Bill is no longer employable in the oil field as a result of the February 2<sup>nd</sup> explosion. However, Ampower alleges that Bill’s employer, Fracturing Services, and Bill himself, committed numerous and serious safety violations in the way they set up and conducted this fracking operation. Ampower asserts that these violations were the real cause of the tragic explosion. Ampower specifically denies that it acted with reckless disregard for anyone’s rights or safety—its employees were on the same site, and just as endangered as Bill was by any possible explosion. Ampower strenuously objects to any award of punitive damages.

#### ADDITIONAL UNDISPUTED FACTS:

1) Both Ampower and Fracturing Services had the authority to shut down the fracking operation at any time.

#### 2) PLAINTIFF CLOSING ARGUMENT:

This was not JUST negligence.

This was a willful and wanton disregard of the rights of every worker on this site. This was elevating profits above every other consideration.

This is behavior that cries out for punishment above and beyond the few days that this oil company will have to operate in order to pay Bill's modest compensatory damages.

This is EXACTLY why the law allows juries to impose punitive damages. We suggest you punish Ampower in the only language they understand...money.

We suggest you assess punitive damages in the amount of \$19.5 million, which is five times the compensatory losses Bill and Mary have endured as a result of this needless explosion. Justice is never afraid to speak the truth boldly. So we are asking you, as peers of Bill and Mary Delaney's, to speak out boldly against the abuses of this greedy corporation.

Teach them a lesson. Award Bill and Mary \$8 million in compensatory damages. And make Ampower pay \$19.5 million in compensatory losses.

#### 3) DEFENDANT CLOSING ARGUMENT:

Bill was the one responsible for installing, setting, and testing the pop-off that should have gone off when the annulus pressure reached 5,000 pounds. Therefore, I believe it is only fair that Ampower Oil Company, Fracturing Services and Bill ALL be assigned a percentage of fault as well.

Bill had received a disability rating from the Veterans Administration of 70 percent only a few weeks before this accident occurred. "severe and chronic" before this accident.

Ampower asked one of the most experienced and qualified posttraumatic stress disorder doctors in the country to review case. The expert is of the opinion that Bill's PTSD was aggravated as a result of the accident. And that he should not have been working in the oilfields prior to the accident, both for his own safety and the safety of his coworkers.

With proper treatment for everyone is hopeful that Bill will be able to return to a level of function to be able to reenter the workforce and society in general.

We have tried to be very fair to Bill and recognize that this will take time; in fact, it will take several years before, with proper motivation on his part, he can reach that level. This is why we retained an expert in vocational rehabilitation. We believed it was unreasonable to assume that with severe and chronic posttraumatic stress disorder prior to this accident, that Bill could have continued to work in the high stress and high danger industry of oilfield work, especially to age 68, as suggested by his attorney. Very few people are able to last in the oilfields into their older years, because of the nature of the work, much less battling severe and chronic posttraumatic stress disorder.

Based on this expert's assessment, we think \$153,377 is an appropriate value for Bill's future economic losses.

I must strenuously object to my colleague's suggestion that you should award punitive damages against Ampower Oil Company in this case. Punitive damages are not designed to compensate a person who has been injured. The questions you have previously considered on the verdict form in regard to past and future economic and noneconomic loss accomplish the function of compensating for an injury.

My colleague has suggested that in addition to giving Bill and Mary fair compensation, you should also add on amounts for Bill and Mary to punish Ampower Oil Company in this case. My colleague has implied that the actions of the Ampower Oil Company were oppressive and done with actual malice, which means that Ampower intended to hurt someone. The Ampower supervisor is a life-long, local resident. He has worked in the oilfields most of his adult life. He is not a malicious person and would never, and I repeat never, do anything to intentionally injure someone else. He was as close to the well at the time of this accident as anyone was. I do not know what more I can say on that subject, other than it would be totally against the evidence in this case to even imply that the Ampower supervisor was oppressive and showed actual malice towards Bill or anyone else.