

Justices Overturn Big Jury Award Punitive Damages Called Unreasonable

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The Supreme Court handed a victory yesterday to advocates of limiting jury awards in civil damage lawsuits, overturning a Utah ruling that awarded \$145 million in punitive damages to a couple that sued State Farm Insurance Cos. over its handling of an automobile accident case.

The court said that it was not imposing a rigid, "bright line" ratio on the amount of punitive damages that are permissible. But in a 6 to 3 opinion written by Justice Anthony M. Kennedy, the justices suggested that punitive damage awards that exceed the amount of compensatory damages in the same case by much more than a single-digit ratio may not pass constitutional muster.

"In sum, courts must ensure that the measure of punishment is both reasonable and proportionate to the amount of harm to the plaintiff and to the general damages recovered," Kennedy wrote.

The court also reaffirmed its ruling in an earlier punitive damages case that "the wealth of a defendant cannot justify an otherwise unconstitutional punitive damages award."

Compensatory damages are meant to make up for actual damages suffered by a successful plaintiff in a civil lawsuit. Juries often also award punitive damages to punish wrongdoing and act as a deterrent.

Legal experts said the court's decision was a big win for corporate America and a blow to trial lawyers representing individuals. It could affect dozens of cases now on appeal, including ones against drug companies, banks, insurance companies, automakers and tobacco firms, they said.

"From the perspective of business, it is a smashingly good opinion. It's going to go a long way in reining in these crazy punitive damage awards," said Theodore Boutrous Jr., who represents Ford Motor Co. in its efforts to overturn a \$290 million punitive damages award in California. "It gives much clearer guidance to the lower courts."

"Consumers lose [because] actual damages are not enough to get the attention of large multinational companies," said appellate lawyer Rob Scott. "No single individual will be able to make a significant impact in terms of regulating corporate behavior."

In the Utah case, Curtis Campbell and his wife, Inez, sued State Farm, their insurance company, in connection with a multi-car accident in which Campbell was found at fault in a separate lawsuit for the death of a driver and permanent injury to another. The couple accused the insurance giant of bad faith, fraud and intentional infliction of emotional distress in the conduct of a defense of Campbell in the first lawsuit.

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A jury awarded the Campbells \$2.6 million in compensatory damages and \$145 million in punitive damages, but the trial court judge reduced those amounts to \$1 million and \$25 million. Finding State Farm's conduct "reprehensible," the Utah Supreme Court reinstated the \$145 million punitive damages award.

In yesterday's ruling, the Supreme Court said that the 145 to 1 ratio of punitive damages to compensatory damages led to a presumption that the punitive damages award was not justified under the due process clause of the U.S. Constitution.

"While we do not suggest there was error in awarding punitive damages based upon State Farm's conduct toward the Campbells, a more modest punishment for this reprehensible conduct could have satisfied the state's legitimate objectives, and the Utah courts should have gone no further," Kennedy wrote. "This case, instead, was used as a platform to expose and punish the perceived deficiencies of State Farm's operations throughout the country."

Justices Antonin Scalia and Clarence Thomas filed brief, separate dissenting opinions reiterating their view that the Constitution does not constrain the size of punitive damage awards. In a lengthier dissent, Justice Ruth Bader Ginsburg said the court majority had no justification to overturn a state court award based on state law.

"The large size of the award upheld by the Utah Supreme Court in this case indicates why damage-capping legislation may be altogether fitting and proper," Ginsburg said. "Neither the amount of the award nor the trial record, however, justifies this court's substitution of its judgment for that of Utah's competent decision-makers."

The decision is especially good news for highly regulated industries such as insurance and for companies that make consumer products, because it will help limit their exposure to punitive damages and allow them to plan better for lawsuit costs, analysts said.

That's because the court for the first time suggested a maximum ratio for punitive damages to compensatory damages.

This decision helps clarify the meaning of a 1996 case involving BMW, in which the Supreme Court also overturned a punitive damage award as too large but did not provide any kind of numerical guidance for state courts.

As a practical matter, the ratio may also help companies that want to appeal a verdict and are required to post a bond to cover their potential liability, analysts said. It may also help public companies that have to list their potential legal liabilities in their Securities and Exchange Commission filings.

"This case is really important to corporations. If you've got a consumer product, you would like to do a rational benefit-cost analysis . . . in deciding what level of safety is appropriate. . . . You don't want a lottery win against you," said University of Texas law professor Henry Hu.

National Association of Manufacturers President Jerry Jasinowski called the decision "an important breakthrough in our continuing efforts to make judges more aware of the fact that elements of our judicial system are out of control."

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The court also reaffirmed that state juries can't punish a company for behavior that is legal in other states. And it placed stricter limits on using evidence of even illegal out-of-state behavior to justify punitive damages.

"A case by an individual plaintiff is not an occasion to study all of the other conduct of the company and throw it up against the wall," said Andrew Frey of Mayer, Brown, Rowe & Maw, who won the original BMW case.

Frey said he has several appellate cases that may be affected by the latest decision, including a \$25 million age discrimination award and a \$200 million contract dispute involving a bank.

David Snyder, assistant general counsel of the American Insurance Association, said the limits on out-of-state evidence were crucial to his industry because it is so heavily regulated. "It's by far the most significant case for any company that is heavily regulated in many years," Snyder said.

Joan Claybrook, president of Public Citizen, which pushes consumer rights, said the ruling will still allow juries to award substantial punitive damages. At the same time, she thought cases "may be resolved more quickly" because there will be fewer appeals. "Presumably this won't be misused by the state courts to take juries' voices away" when they are angry over the behavior of companies.

And plaintiffs' attorney Barry Knopf said he was troubled that the high court did not tie damage award limits to the size of the defendant. "The purpose of punitive damages is to deter certain types of conduct . . . and what's important to a very small corporation is peanuts to State Farm," he said. "You lose the deterrence."

But Harvard Law School professor W. Kip Viscusi said the decision is unlikely to deter lawsuits all together. "Having a 10-to-1 ratio is still lots of incentive to file," he said.

And Frey noted that the State Farm case, like the BMW case before it, centered on economic damage and may therefore have less impact in areas such as product liability law, where actually physical injuries may be involved.

Philip Morris Vice President William S. Ohlemeyer said the court's decision could help the tobacco giant's current fight in Illinois state courts against a recent massive verdict. A state judge found that the company deliberately misled consumers about the potency of its light cigarettes and awarded \$10.1 billion in damages, of which \$3 billion was for punitive damages. To appeal, Philip Morris has to post a \$12 billion bond, an amount it is now trying to reduce to \$1.5 billion. Otherwise it may have to file for bankruptcy protection.

According to Ohlemeyer, the court's decision makes it clear that "just because a company has a lot of money, you can't award a lot of punitive damages. It has to be relative to compensatory damages, to the harm done to individuals." The company is challenging the entire damages award, calling the \$7.1 billion compensatory award unjustified.

But tobacco industry opponents said the decision helps their cause because the \$3 billion punitive fine is less than half the amount of compensatory damages awarded by the judge. At the same time, they noted, other cases where smokers have been awarded billions in damages differ from the case just reviewed by the Supreme Court because the State Farm case involved economic damages, not physical ones, and a single instance of misconduct, not a repeated pattern.

Staff writer Caroline Mayer contributed to this report.

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