U.S. SUPREME COURT FINDS EXCESSIVE PUNITIVE DAMAGE AWARDS UNCONSTITUTIONAL

The Supreme Court of the United States in *State Farm Mutual Automobile Insurance Co. v. Campbell* (2003), 538 U.S. 408, 123 S. Ct. 1513, limited the scope of claims for punitive damages. This was an excess verdict case in which State Farm refused to settle a wrongful death and permanent disability case for the policy limit of $50,000. A verdict was returned in the amount of $185,849. Plaintiffs reached an agreement not to seek satisfaction against Campbell. In exchange, Campbell agreed to pursue a bad faith action against State Farm and be represented by the Plaintiffs' attorneys. Plaintiffs would receive 90 percent of any verdict against State Farm.

The state court jury awarded the Campbells $2.6 million in compensatory damages and $145 million in punitive damages against State Farm, which the trial court reduced to $1 million and $25 million respectively. On appeal, the Utah Supreme Court reinstated the $145 million punitive damage award.

The U.S. Supreme Court held that a punitive damage award of $145 million when compensatory damages are $1 million is excessive and violates the due process clause of the Fourteenth Amendment. The Court reasoned that the purpose of compensatory damages is to compensate a plaintiff for a loss, while punitive damages act as a deterrence and retribution and serve the same purpose as criminal penalties. Civil defendants are not afforded constitutional protections given to criminal defendants, therefore, there is a danger of deprivation of property without due process of law.

The Court based its decision on the *BMW of North America, Inc. v. Gore* and the three factors to be considered in assessing punitive damages: 1) the degree of reprehensibility of misconduct; 2) the disparity between the actual or potential harm and the punitive damage award; and 3) the difference between punitive damages awarded by the jury and the civil penalties authorized or imposed in comparative cases. In determining the reprehensibility of misconduct, the most important factors must be: 1) the harm is physical rather than economic; 2) the conduct exhibits indifference or reckless disregard to the health or safety of others; 3) the conduct involves repeated actions rather than an isolated event; and 4) the harm results from intentional malice, trickery or deceit, not just an accident.

The Court stated that it should be presumed that Plaintiff has been made a whole by the compensatory damage award, so punitive damages should only be awarded if the misconduct is so reprehensible to warrant the imposition of further sanctions to achieve punishment and deterrence. While State Farm's handling of the claims was bad, a more modest punishment could have satisfied the state's legitimate interests.

The Court further held that evidence of State Farm's nationwide claim handling practices should not have been considered by the jury. A state cannot punish a defendant for conduct that may have been lawful where it occurred and does not have a legitimate interest to impose punitive damages to punish a defendant for acts committed outside its jurisdiction.

Although the Court did not set any concrete guidelines for the ratio between compensatory damages and punitive damage, it did state that single digit multipliers are more likely to comport with due process. Greater multipliers may be proper whether there is a particularly egregious act and only a small amount economic damages. The court stated there was a presumption against an award within 145 to 1 ratio especially when the plaintiff received $1 million in compensatory damages for a year and one-half of emotional distress.

Although the Supreme Court set no clear guidelines, it certainly sends a signal to Courts of Appeals that excessive punitive damage awards do not pass constitutional muster especially when the compensatory damage component is large.

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