

Our Legal Reality



U.S. Supreme Court Imposes Limitations on Punitive Damages—A Big Step! by Kent J. Pagel

Punitive damages, or the threat of an award of punitive damages, can be emotionally wrenching to all business owners, including the component manufacturer. A recovery of punitive damages may bear no relationship to the damages that are being sought and furthermore may not be covered by liability insurance depending on your state's law or an exclusion that exists in your liability insurance policy. Fortunately, the United States Supreme

Court in April 2003 introduced a reasonable limitation to the award of punitive damages.

As you read through the facts of the case decided by the Supreme Court, your "blood may boil" on how poorly State Farm represented its policyholder, but in my opinion such conduct did not justify the jury's award of punitive damages—the Supreme Court agreed as well. In "State Farm Mutual Automobile Insurance Co. v. Campbell," the Supreme Court was asked to strike down a \$145 million punitive damages award as excessive and in violation of the Due Process Clause of the Constitution, in light of the jury's award of \$1 million in actual damages.

The plaintiffs in the underlying suit, Curtis Campbell and his wife Inez, were traveling on a two-lane highway in Cache, UT. Mr. Campbell attempted to pass six vans traveling ahead of them by driving on the wrong side of the highway and toward oncoming traffic. Todd Ospital, driving toward Mr. and Mrs. Campbell's vehicle swerved onto the shoulder to avoid a head-on collision, lost control and collided with Robert Slusher. Ospital was killed, and Slusher was disabled. Mr. and Mrs. Campbell were not injured.

State Farm, the insurance company for the Campbells, contested the liability of the Campbells and declined offers by Slusher and Ospital's estate to settle the case for the policy limits of \$50,000, which would have given each claimant \$25,000. State Farm made the decision to take the case to trial and assured the Campbells that State Farm would represent their interests, that they did not need separate counsel, and that their assets were safe. In the subsequent wrongful death and tort action filed by Slusher and Ospital, the jury returned a verdict of 100 percent liability attributable to Mr. Campbell and awarded a judgment of \$185,849.

Initially, State Farm refused to cover the \$135,849 in excess of the Campbell's policy limits and even advised the Campbell's that they "may want to put for sale signs on [their] property to get things moving." Additionally, State Farm refused to assist in appealing the judgment.

Campbell thus hired an attorney and appealed the judgment. During the pending appeal, the Campbells reached an agreement with Slusher and Ospital. In the agreement, Slusher and Ospital

agreed not to enforce the judgment against the Campbells if the Campbells agreed to pursue a bad faith action against State Farm. The Campbells also agreed to use Slusher and Ospital's attorneys and that Slusher and Ospital would receive 90 percent of any recovery against State Farm.

The Campbells were unsuccessful with their appeal. And, while State Farm ultimately agreed to pay the entire \$185,849 judgment, the Campbells nevertheless filed an action against State Farm that resulted in the \$145 million punitive damage award, which became the issue before the Supreme Court.

Although most would agree that the conduct of State Farm toward the Campbells was reprehensible, the Supreme Court held that the award should fail because the award of \$145 million "was neither reasonable nor proportionate to the wrong committed...." The court explicitly refused to impose a "bright-line ratio which a punitive damages award cannot exceed," but it did state that "few awards exceeding a single-digit ratio between punitive and compensatory damages...will satisfy due process." The court narrowed its views even further when it stated, "an award of more than four times the amount of compensatory damages might be close to the line of constitutional impropriety."

Although the Court refused to impose a "bright-line ratio" to determine punitive damages and left open the possibility that certain facts may warrant a larger ratio; it did significantly narrow the range that will call into question the constitutionality of punitive damages that fall outside these boundaries.

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