



June 26, 2008

COURT IMPOSES LIMITS ON PUNITIVE DAMAGES AWARDS

(Exxon Shipping Co. v. Baker, No. 07-219)

The U.S. Supreme Court this week overturned a federal appeals court decision that upheld a \$2.5 *billion* punitive damages award against Exxon Mobil, an amount nearly 100 times greater than the largest punitive damages award ever previously affirmed by a federal appeals court. The Court held that the award was excessive under federal common law; it reduced the award to \$500 million. The case arose in the aftermath of the 1989 Alaska oil spill caused by the grounding of the Exxon Valdez.

The decision was a victory for the Washington Legal Foundation, which filed a brief in the case, *Exxon Shipping Co. v. Baker*, urging the Court to reduce the size of the award. The Court agreed with WLF that punitive damage awards that exceed the amount of compensatory damages are generally inappropriate in cases decided under federal law. The Court was evenly divided on -- and thus did not rule on -- an additional Exxon argument: federal maritime law traditionally has barred *any* punitive damages award in cases, as here, in which there was no finding that the defendant's wrongful act was either intentional or reckless.

"The Supreme Court in the past has expressed reluctance to second-guess punitive damages awards issued under state law, because doing so raises significant federalism concerns," said WLF Chief Counsel Richard Samp after reviewing the Court's decision. "But the Court rightly recognized that such concerns are inapplicable when, as here, the case arises under federal law. In those circumstances, it is totally appropriate for the Court to step in and impose reasonable federal-common-law limitations on the size of awards," Samp said.

The case arose in the aftermath of the 1989 oil spill in Prince William Sound, Alaska. Exxon subsequently spent \$2.1 billion cleaning up the spill and paid private claims totalling \$300 million. Proceedings commenced against Exxon by state and federal governments were settled in 1991, with Exxon agreeing to pay environmental and natural resources damages of \$900 million. Exxon also paid criminal and restitution fines in the amount of \$125 million. The total liabilities incurred by Exxon to date as a result of the oil spill exceed \$3.4 billion. The jury award in this case

threatened to add another \$5 billion to that total (later reduced to \$2.5 billion by the appeals court).

In slashing the award, the Supreme Court noted that punitive damages awards have only two permissible purposes: to punish wrongdoing and to deter future misconduct. WLF had argued that by any rational measure, the \$3.4 billion expended by Exxon to date more than adequately served both of those goals. While unwilling to go quite that far, the Court said that when, as here, the defendant was not alleged to have acted intentionally or maliciously (but merely recklessly) and the defendant's conduct was not motivated principally by a desire for profit, federal common law limits punitive damages to an amount no greater than the actual damages incurred by the plaintiffs -- in this case, \$500 million.

In recent years, the U.S. Supreme Court has recognized that the Due Process Clause imposes limitations on the size of punitive damages awards. However, based on its reluctance to interfere with the operation of state courts, the Supreme Court has held that such constitutional limitations do not justify a searching examination of punitive damages awards; rather, the Due Process Clause does no more than impose a ceiling above which state courts may not go in terms of imposing arbitrary punishments on defendants. The Court agreed with WLF that when, as here, the lawsuit raises issues of federal law (here, federal maritime law), it is incumbent upon the federal courts to undertake a more exacting scrutiny of any punitive damages awards, to ensure that they are no greater than necessary to serve the legitimate goals of punishment and deterrence. The Court instructed federal courts that they ought to generate federal common law to address such situations.

WLF is a public interest law and policy center with supporters in all 50 states. It devotes a substantial portion of its resources to promoting tort reform and reining in excessive litigation.

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For further information, contact WLF Chief Counsel Richard Samp, 202-588-0302. A copy of WLF's brief is posted on its web site, www.wlf.org.