

Federal district court slashes punitive award in hip implant case

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Facts

Decision

Earlier in 2016 Wright Medical Technology filed post-trial motions in the first trial arising out of alleged defects in its hip implant device (for further details please see "[Wright Medical Technology files brief supporting post-trial motions in hip implant case](#)"). On April 5 2016 the district court resolved the motions, rejecting all of Wright's arguments for judgment as a matter of law or a new trial, but dramatically reducing the punitive damages from \$10 million to \$1.1 million.

Facts

The plaintiff received a Wright hip implant and, after experiencing what the district court characterised as "a cataclysmic failure", had to have it removed and replaced. She alleged that Wright's hip implant was defectively designed and that Wright had committed fraud and made negligent misrepresentations in marketing the device to surgeons. The jury found Wright liable for design defect and awarded the plaintiff \$550,000 in compensatory damages; it also found that Wright had made negligent misrepresentations about the virtues of its device, for which it awarded the plaintiff an additional \$450,000 in compensatory damages, plus \$10 million in punitive damages.

Decision

The district court's key rulings on punitive damages were that:

- under Utah law, which governed the claims in this case, punitive damages may be imposed for a negligent misrepresentation made with reckless disregard for the rights of others; and
- the \$10 million punitive award was unconstitutionally excessive.

With respect to excessiveness, the district court made some significant subsidiary rulings:

- The court implicitly recognised that the five reprehensibility factors identified in *State Farm* are not exclusive by emphasising that "one of the driving motivations for the [defendant's] hip replacement device design was to improve the quality of life for active patients" and that "[t]his laudable objective and motivation is a significant factor in evaluating the degree of punitive damages awarded in this case".
- The court tacitly embraced the position recently [adopted](#) by the 10th Circuit that courts reviewing the amount of punitive damages may not defer to "phantom" fact findings and should not simply accept whatever inferences the plaintiff urges that the evidence can support. Undertaking its own review of the evidence, the court explained that:

"Plaintiff's argument that Defendant's only motive in advocating for and marketing the device was to increase profits... ignores the evidence presented at trial that Defendant's goal of offering a better device, with more dependable functionality and durability, was a substantial motivation to bring the device to market."

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- The court held that the denominator of the ratio of punitive to compensatory damages is limited to the compensatory damages awarded for the claim as to which punitive damages were imposed (\$450,000), not the total compensatory damages (\$1 million, \$550,000 of which were awarded for a design defect claim that could not support an award of punitive damages).
- The court held that because the plaintiff suffered only \$40,000 in economic damages "with the remaining amount of compensatory damages attributable to intangible, subjective, non-economic damages for pain and suffering and loss of life's enjoyments", the compensatory damages qualify as "substantial" for purposes of evaluating the 22:1 ratio of punitive to compensatory damages.
- Importing Utah common-law limits on punitive damages into the constitutional inquiry, the court held that the factors identified by the Utah Supreme Court indicate that a ratio greater than 3:1 "is not justified in this case". In particular, the court emphasised that "[t]he facts and circumstances of this case show [that] there was an acceptable and commendable motivation for Defendant's liability-creating conduct".
- The court concluded that a punitive award of \$1.1 million "is reasonable and proportionate to the amount of harm to the plaintiff and to the general damages recovered" (internal quotation marks omitted). The court offered no explanation for its choice of this figure, which was 2.44 times the compensatory damages awarded for the negligent misrepresentation claim.

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An earlier version of this update appeared in Mayer Brown LLP's punitive damages blog, [Guideposts](#).

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