

Texas Court of Appeals reduces \$115 million punitive award to mere shadow of itself

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Facts

Appellate decision

Comment

Courts applying *BMW* and *State Farm* often emphasise the Supreme Court's admonition that the constitutional line is not "marked by a simple mathematical formula" – typically when rejecting a defendant's argument that the ratio of punitive to compensatory damages is indicative of an excessive award. However, in *Mercedes-Benz USA v Carduco, Inc* the Texas Court of Appeals showed that this dictum is a two-way street, reducing a punitive award to a small fraction of the compensatory damages.

Facts

The plaintiff, a Mercedes Benz dealer, alleged that Mercedes-Benz USA and three of its employees induced the plaintiff to move its dealership to McAllen, Texas without disclosing that the territory would be divided with another dealer even though it was not large enough to sustain more than one.

The jury found the defendants liable and awarded over \$15.3 million in compensatory damages – representing the jury's assessment of the profits that the plaintiff would have made had the territory not been divided with the other dealership – and a total of \$115 million in punitive damages against Mercedes-Benz USA and the three employees.

Appellate decision

A divided panel of the Texas Court of Appeals upheld the liability findings, rejecting the defendants' arguments that they owed no duty to disclose and that the reliance element of the plaintiff's cause of action was negated, as a matter of law, by language in the dealer agreement. The majority also held that the evidence was sufficient to support the jury's finding of liability for punitive damages. Justice Rodriguez [dissented](#), stating that "the alleged oral representations and non-disclosures about which [the plaintiff] complains are directly contradicted by the express, unambiguous terms of the Dealer Agreement, and [the plaintiff] was not justified in relying upon them as a matter of law".

Despite upholding the liability findings, the majority determined that the punitive damages were unconstitutionally excessive under *BMW* and *State Farm*, conditioning the denial of a new trial on the plaintiff's acceptance of a remittitur to \$600,000.

The court began by observing that because the injury was purely economic, the conduct did not threaten anyone's health or safety and the tort was an isolated incident, the first, second and fourth reprehensibility factors identified in *State Farm* "weigh completely in favor of" the defendants. The court further found that because the record "simply does not support" a finding that the plaintiff was financially vulnerable, "the third factor weighs heavily in favor of" the defendants. The court then concluded that "[a]ssuming without deciding that the fifth factor"—whether the harm resulted from mere accident or intentional malice—"favors [the plaintiff], the five factors combined still indicate a low level of reprehensibility".

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Observing that the Texas Supreme Court (borrowing from the US Supreme Court) had indicated that a 4:1 ratio of punitive to compensatory damages may be "close to the line... of constitutional impropriety", the court next held that the roughly 7.5:1 ratio in the case before it "weigh[ed] in favor of finding the punitive damages excessive".

Turning to the third *BMW* guidepost, the court observed that the punitive damages were far out of line with the \$10,000 criminal fine for a third-degree felony involving deception.

Having concluded that the punitive damages were unconstitutionally excessive, the court used the amounts of punitive damages permitted in other cases involving low reprehensibility as a benchmark for suggesting a remittitur to \$600,000.

Comment

Although the magnitude of the reduction may appear surprising at first blush, it makes perfect sense given that the compensatory damages far exceeded any "ill-gotten gain" to the defendants and therefore more than adequately served the state's interests in deterrence and retribution in their own right.

It would have been helpful had the court made this point more explicitly. However, even as it stands, the decision will be a useful precedent for the proposition that a 9:1, 4:1 or even 1:1 ratio is not a safe harbour when the conduct is on the low end of the reprehensibility spectrum and the compensatory damages are substantial.

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An earlier version of this update first appeared in the Mayer Brown Punitive Damages blog - www.punitivedamagesblog.com.

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