

Punitive Damages

Recap

Mathias v. Accor Economy Lodging, Inc.

1. Procedural posture
2. Legal question(s)
3. Relevant facts
4. Holding
5. Reasoning(s) behind the holding

Rule from State Farm

Anything outside of single digit ratio of punitive to compensatory damages is presumed unreasonable.

Three Due Process Concerns with Punitive Damages

1. Proportionality

2. Notice

3. Punishment for actions, not identity/status of defendant

Traditional Rationale Behind Punitive Damages

State Farm v. Campbell

1. Procedural posture
2. Legal question(s)
3. Relevant facts
4. Holding
5. Reasoning(s) behind the holding

Guideposts from *BMW v. Gore*

1. Reprehensibility
2. Disparity between compensatory and punitive damages
3. Difference between punitive damages and civil penalties

In-Class Exercise

Oral argument: *Appealing a Punitive Damages Award*

Your Job

Your job is to prepare for oral argument for both plaintiff and defendant.

Defendant/Appellant goal:

Convince the court that the award amount is unconstitutional.

Plaintiff/Appellee goal:

Convince the court that the award amount is constitutional.

Use the legal tests we just went over in class.

Draw upon and *analogize to* the reasoning from today's cases.

When we reconvene, I will cold call random students and we will workshop our arguments.