

Punitive Damages

BMW v. Gore

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

14th Amendment

Section 1.

...

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

...

BMW v. Gore: Due Process Concerns

Majority

- Jurisdiction
- Fair notice
- Proportionality

Concurrence

- Arbitrary coercion

Three Guideposts

1. Degree of reprehensibility
2. Ratio of punitive damages to harm inflicted on plaintiff
3. Comparison with civil or criminal penalties

State Farm v. Campbell

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State Farm Reasoning:

Guideposts from *BMW v. Gore*

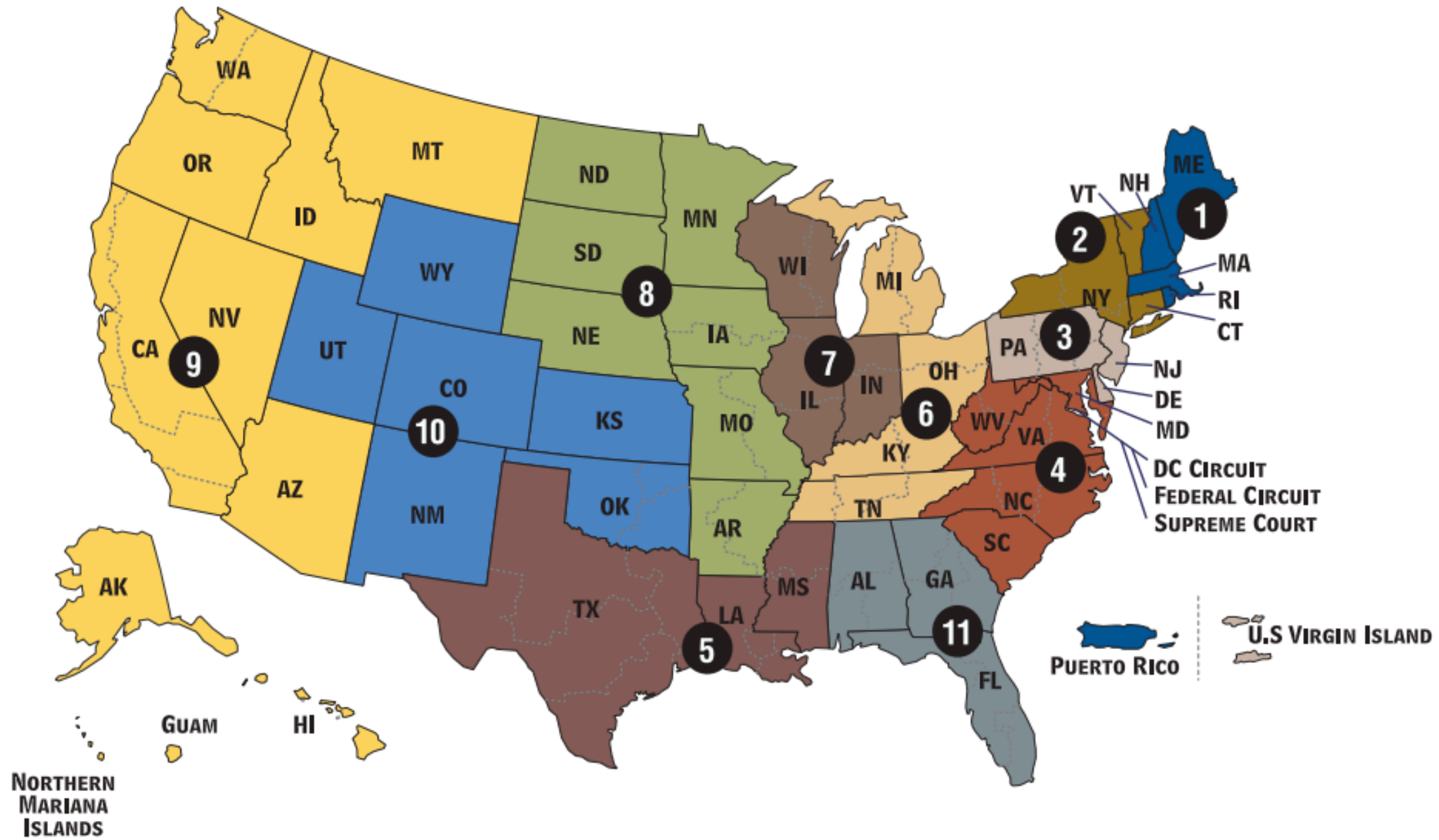
1. Reprehensibility
2. Disparity between compensatory and punitive damages
3. Difference between punitive damages and civil penalties

Mathias v. Accor Economy Lodging, Inc.

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Geographic Boundaries

of United States Courts of Appeals and United States District Courts



Oral argument: Appealing a Punitive Damages Award

When we reconvene for class on Tuesday, we we will moot oral arguments for a case on appeal before the Loyola Supreme Court: *Hershovitz v. Speedy Pete's Pizza Pies*

Odd-numbered groups (1, 3, 5, 7, 9, 11) are attorneys for the plaintiff.

Even-numbered groups (2, 4, 6, 8, 10, 12) are attorneys for the defendant.

On Tuesday, I will cold call students at random to present their arguments. I will ask follow-up questions, and I will call on students representing the opposing side to address the points that have been made.

The only legal issue on appeal in this case is whether the punitive damages award in this case is excessive and would deprive the defendant of its property without due process of law.

Use the legal tests we just went over in class.

Draw upon and analogize to the reasoning from these cases.