



LIMITATIONS ON PUNITIVE DAMAGES IN ARIZONA

In recent years, the standard by which Arizona courts examine the validity of punitive damage claims has been molded by rulings from the United States Supreme Court. In 2003, in *State Farm Mut. Auto Ins. Co. v. Campbell*, the United States Supreme Court struck down a \$145 million dollar punitive damage award in a bad faith case and set forth legal principles that will make it more challenging for litigants to secure multimillion-dollar punitive damage awards in the future. *State Farm Mut. Auto Ins. Co. v. Campbell*, 538 U.S. 408 (2003). The ruling in *Campbell* continued the Court's efforts to reform punitive damage award guidelines that were initially set forth in *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996).

The Court's ruling in *BMW v. Gore* established that the Fourteenth Amendment provided substantive due process protections against "excessive" awards of punitive damages. The Court supported its ruling by outlining three "guideposts" that could be used by lower courts to measure whether an award of punitive damages was unconstitutionally excessive: (1) the degree of the defendant's reprehensibility or culpability; (2) the relationship between the penalty and the harm to the victim caused by the defendant's actions; and (3) the sanctions imposed in other cases for comparable misconduct. *Id.*

Arizona courts hold an even more concentrated standard for establishing a basis for the award of punitive damages in a civil lawsuit. In *Rawlings v. Apodaca*, the Arizona Supreme Court held that a plaintiff must prove something more than the mere commission of a tort. *Rawlings v. Apodaca*, 151 Ariz. 149 (1986). More specifically, that a tortfeasor's "evil hand was guided by an evil mind." *Id.* This inquiry is based upon the evaluation of a defendant's mental state for an award of punitive damages. *Linthicum v. Nationwide Life Ins. Co.*, 150 Ariz. 326 (1986). The evidence must surpass "gross negligence or mere reckless disregard of the circumstances" and clear and convincing evidence is required. *Linthicum*, 150 Ariz. 331, 723 P.2d 680. More particularly, the evidence must show that a tortfeasor was aware of and consciously disregarded a substantial and unjustifiable risk that significant harm would occur. *White v. Mitchell*, 157 Ariz. 523 (Ariz. App. 1988).

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In the context of bad faith tort actions, Arizona courts have held that “punitive damages are recoverable . . . only if the insured acted with an ‘evil mind’ in breaching the implied covenant of good faith and fair dealing.” *Hawkins v. Allstate Ins. Co.*, 152 Ariz. 490 (1987). Punitive damages are “recoverable in bad faith tort actions when, and only when, the facts establish that defendant’s conduct was aggravated, outrageous, malicious or fraudulent.” *Rawlings, supra*. In addition to the requirement of aggravated, outrageous, malicious, or fraudulent conduct, an insured must also prove the carrier acted with “an evil mind as evidenced by a showing that the defendant was consciously aware of the needs and rights of the insured and nevertheless, ignored its obligations.” *Linthicum, supra*. These elements need to be “something more” than the conduct necessary to establish the tort of bad faith.

Despite the significant burden, Arizona judges tend to allow the issue of punitive damages to go to the jury, and juries are instructed that there is no limit on the amount of punitive damages they may assess. While the jury may state any amount of punitive damages it wishes on the verdict form, Arizona courts have held that the amount of punitive damages may be reduced to conform to the amount of compensatory damages awarded by the jury. There is no “bright-line ratio” applied by the courts, but an award of punitive damages which is more than four times the amount of compensatory damages “might be close to the line of constitutional impropriety.” *Nardelli v. Metro. Group Prop. & Cas. Ins. Co.*, 230 Ariz. 592 (Ariz. App. 2012) (quoting *Campbell*, 538 U.S. at 425). If the compensatory damages themselves are substantial, “a lesser ratio, perhaps only equal to compensatory damages, can reach the outermost limit of the due process guarantee.” *Id.* In *Nardelli*, for example, the Arizona Court of Appeals reduced a punitive damages award of \$620,000 to \$155,000 because the reprehensibility of the defendant’s misconduct was “low to, at most, moderate.” The Court also concluded that a 4:1 ratio of punitive damages to compensatory damages was unconstitutionally excessive under the circumstances.

If you are faced with a bad faith claim, punitive damages are a real and significant threat should the case proceed to a jury verdict. However, with a proper defense strategy you may be able to significantly limit, or possibly eliminate, a claim for punitive damages. Thomas Rubin & Kelley has significant experience in evaluating and defending bad faith claims. Please feel free to contact us if you need assistance with any of your Arizona claims.