

News **Civil Appeals**

In Case With Slashed \$25M Verdict, Pa. Appeals Court Wades Into Constitutionality of 'Excessive' Punitive Awards

The appellate court affirmed the finding that the punitive damages were excessive, but concluded the trial court erred in its calculations for a new award.

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Wading into the constitutionality of punitive damages awards, a Pennsylvania appellate court has largely rejected efforts to restore a \$25 million punitive damages award that was later reduced to just \$1 million.

On [Friday](#), the Pennsylvania Superior Court upheld the Philadelphia County Court of Common Pleas' decision to slash the award based on the "interests of justice and constitutional considerations." However, the court concluded that questions remain regarding how much the plaintiffs, Patrick Clemmons and his wife, should be awarded.

The three-judge panel reviewing *Clemmons v. Lehr* ultimately tasked the trial court with reevaluating its decision to reduce the award to \$1 million, determining the lower court failed to consider all compensatory damages awarded, including for loss of consortium.

"A review of relevant case law demonstrates that, if a compensatory damage award includes recovery for a claim of loss of consortium, a court must consider the entire compensatory award when assessing the ratio between the compensatory and punitive damages awards," Judge Judith Ference Olson, who authored the opinion, said. She was joined by Judges Alice Beck Dubow and Jill Beck.

In 2023, a Philadelphia jury returned a [\\$26.2 million verdict](#), including \$25 million in punitive damages, in favor of Clemmons, who claimed he sustained neck, back and head injuries after an Ecore tractor-trailer rear-ended him. However, [a year later](#), Judge Gwendolyn Bright of the Philadelphia Court of Common Pleas reduced the punitive damages award by more than 90% to \$1 million after concluding that the award was inappropriate given the evidence in the case and the actual award.

Clemmons appealed, arguing that the trial court erred in reducing the award. The defendants argued on cross-appeal that the plaintiffs weren't entitled to any punitive damages.

The appellate court determined punitive damages were warranted given the reprehensibility of the defendant's conduct, but agreed with the trial court that the initial award and the 21.67:1 ratio between the punitive damages award and the compensatory damages award were unduly excessive. The court noted that "excessive punitive damages awards raise constitutional concerns," and that its case law makes "clear that punitive damages are an 'extreme remedy' available in only the most exceptional matters."

The panel pointed to the U.S. Supreme Court's 2003 holding in *State Farm Mutual Automobile Insurance v. Campbell*, which provides that the due process clause of the 14th Amendment prohibits "the imposition of grossly excessive or arbitrary punishment on a tortfeasor," and that "few awards exceeding a single-digit ratio between punitive damages and compensatory damages, to a significant degree, will satisfy due process."

However, the panel determined that the decision to reduce the award to \$1 million based on a 2:1 multiplier was incorrect because it only considered the \$500,000 compensatory damages awarded to Clemmons and improperly excluded the \$700,000 loss of consortium damages his wife was awarded from the calculations.

"In so doing, the trial court erroneously inflated the ratio of the remitted punitive damages," Olson said.

Therefore, the court remanded the suit to the trial court, instructing the parties to award an appropriate punitive damages award based on a proper multiplier.

Charles L. Becker and Ruxandra M. Laidacker of Kline & Specter joined trial counsel Clancy Boylan and Hannah J. Molitoris of Morgan & Morgan in representing the plaintiffs. In a joint emailed statement, counsel said that their clients "look forward to returning to the trial court for a reassessment of the punitive verdict."

"Under case law, any remittitur of a punitive verdict must be to not a penny less—and not a penny more—than the maximum amount that Due Process affords given the misconduct of the defendants and the potential harm to the victims of that misconduct," the attorneys said in the statement.

Andrew J. Connolly of Post & Schell, in Philadelphia, is representing Ecore and Lehr and declined to comment.

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