

US Supreme Court Rules on Exxon Valdez Damages

On Wednesday, 25 June 2008, the US Supreme Court released the long-awaited final ruling in the punitive damages case between ExxonMobil and a host of plaintiffs stemming from the 1989 *Exxon Valdez* oil spill in Alaska's (USA) Prince William Sound, saying that the US \$2.5 billion award in the case was "excessive," and should be slashed to no more than \$507.5 million dollars. The case, which has been winding its way through the courts for well over a decade, involves the amount of punitive damages that ExxonMobil will be required to pay to some 33,000 commercial fishermen, cannery workers, landowners, natives, local governments, and businesses that suffered economic losses when the *Exxon Valdez* hit a reef and spilled 11 million gallons (262,000 barrels) of crude oil. The spill contaminated 1,200 miles (over 1,900 kilometers) of shoreline, killing hundreds of thousands of seabirds and marine mammals. Wednesday's ruling vacated a federal appeals court award and remanded the case to the lower court "to remit the punitive damages award accordingly."

Background

In 2007, ExxonMobil asked the Supreme Court to review a 23 May 2007 decision by the Ninth US Circuit Court of Appeals in San Francisco (California, USA) that declined to reconsider an earlier decision that set punitive damages in the case at US \$2.5 billion (see *OSIR*, 30 August 2007). That judgment cut in half the original award made by an Anchorage, Alaska, US District Court jury in 1994.

"This case has never been about compensating people for actual damages," ExxonMobil said. "Rather it is about whether further punishment is warranted in a case where the company voluntarily compensated most plaintiffs within a year of the spill, and has spent over \$3.5 billion, including compensatory payment, in cleanup payments, settlements and

finances. We do not believe any punitive damages are warranted in this case."

In its petition, ExxonMobil questioned whether it was legal for the Ninth Circuit to impose punitive damages against the company for the behavior of one of its captains if ExxonMobil didn't have a direct role in the captain's behavior, and if that behavior was contrary to company policy (the captain was a relapsed alcoholic). ExxonMobil also claimed that the Ninth Circuit's ruling ignored legal precedent on awarding punitive damages. ExxonMobil commented, "It is ... important for the Supreme Court to uphold longstanding maritime law that provides that ship-owners are not liable for punitive damages based upon conduct by the ship-master who disregarded the owner's rules and policies." In late October 2007, the Supreme Court agreed to hear the case (see *OSIR*, 1 November 2007). At the same time, the Court declined to hear a cross-appeal filed by lawyers for the plaintiffs that sought to reinstate the original \$5 billion damages award.

Court Says Enough is Enough

The Court summarized the issues before it as follows:

"There are three questions of maritime law before us: whether a shipowner may be liable for punitive damages without acquiescence in the actions causing harm, whether punitive damages have been barred implicitly by federal statutory law making no provision for them, and whether the award of \$2.5 billion in this case is greater than maritime law should allow in the circumstances."

With respect to the punitive damages issue, Wednesday's ruling affirmed that ExxonMobil should not have to pay punitive damages in excess of the compensatory damages already awarded. Compensatory damage calculations were made by

the lower courts earlier in the litigation. A problem with the occasional large jury awards in such cases is that it creates unpredictability in the system that is hard to reconcile with the desire for consistency and fairness in the courts. The court's 5-3 decision (Justice Samuel Alito was recused from the case because he holds considerable ExxonMobil stock) was based on the median payouts for punitive damages in maritime cases.

Justice David Souter, writing for the majority, said, "The punitive damages award against Exxon was excessive as a matter of maritime common law. In the circumstances of this case, the award should be limited to an amount equal to compensatory damages. ... Our explanation of the constitutional upper limit confirms that the one-to-one ratio is not too low. Applying this standard to the present case, we take for granted the District Court's calculation of the total relevant compensatory damages at \$507.5 million. A punitive-to-compensatory ratio of one-to-one thus yields maximum punitive damages in that amount." The three dissenting justices said that the court went too far in restricting punitive damages to a one-to-one ratio with compensatory damages.

The punitive damages that are the subject of this ruling would be in addition to what ExxonMobil has

already spent. The company has spent approximately \$2.1 billion in cleanup costs, settled a civil action for some \$900 million, and paid an additional \$303 million to private parties.

With respect to the other two issues, the Court was equally divided on the issue of corporate liability for the acts of their employee, the captain of the Exxon Valdez, thereby leaving intact the lower courts' ruling that both ExxonMobil and the ship's captain were reckless and potentially liable for punitive damages. The Court also found that federal environmental law does not bar punitive damages: "We are equally divided on the owner's derivative liability, and hold that the federal statutory law does not bar a punitive award on top of damages for economic loss, but that the award here should be limited to an amount equal to compensatory damages."

For more information, see http://money.cnn.com/news/newsfeeds/articles/djf500/200806251204DOWJONESDJONLINE000642_FORTUNE5.htm; <http://afp.google.com/article/ALeqM5jSJMCSWuKWGUGc9odGpuNXDQCcg>; www.usnews.com/articles/news/2008/06/25/supreme-court-cuts-exxon-oil-spill-penalty.html; and www.adn.com/exxonvaldez/story/446057.html. The majority opinion can be found at www.law.cornell.edu/supct/html/07-219.ZO.html.

Hebei Spirit Verdicts Issued

A district court in South Korea has handed down guilty verdicts to two Korean tug boat captains, but has exonerated the crew of the ill-fated oil tanker, *Hebei Spirit*, which leaked some 3.3 million gallons (79,000 barrels) of crude oil

last December off the southern coast of Korea, causing the country's worst oil spill. Samsung Heavy Industries, which owns the crane barge that rammed the tanker, puncturing three of its tanks, was fined, while both the barge captain and the

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