Licari on Punitive Damages

François-Xavier Licari, Professor at the University of Metz (Paul-Verlaine) has posted Taking Punitive Damages Seriously: Why a French Court Did Not Recognize An American Decision Awarding Punitive Damages and Why it Should Have on SSRN. Here is the English abstract (the article is written in French):

Recently, a French Court of Appeal (*cour d'appel*) refused to recognize a California judgment (to grant an "exequatur") that awarded punitive damages to American citizens in a breach of contract case involving the sale of a ship from French sellers. The French Court gave several reasons in refusing to grant the exequatur, particularly: French law only allows for compensatory damages and considers the principle of full compensation as fundamental; punitive damages create an unjust enrichment (a windfall) for the plaintiff. In effect, the punitive damages given by the California court were disproportionate to the actual damages. In sum, punitive damages hurt French public policy (*l'ordre public international français*). The author contends that none of these arguments stand up to an objective examination. For example, a close look at French case law shows the principle of full compensation has never been considered as belonging to the ordre public in the international sense of the notion. Furthermore, French private law knows "private penalties" (*peines privées*), and some of them resemble American punitive damages. Last but not least, two recent law reform proposals militate in favor of the introduction of punitive damages to the French Civil Code. This essay advocates for a better understanding of the notion of punitive damages and their role in American law, and urges French courts to give effect to reasonable punitive damage awards.

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