

United States Supreme Court to Consider Constitutionality of Punitive Damage Award

The United States Supreme Court is scheduled to hear argument on Monday, October 31, in a matter which again visits the basic question of when an American punitive damage award is unconstitutionally excessive. In *BMW of North America v. Gore*, 517 U.S. 559 (1996), the Supreme Court first created constitutional limitations on punitive damages, requiring courts to weigh the reprehensibility of the defendant's conduct, the relationship between the harm suffered by the victim and the amount of punitive damages, and the relationship between the size of the punitive damage award and civil or criminal penalties that could be imposed for the defendant's conduct. Most recently, in *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003), the Court prohibited consideration of wrongful conduct other than the harm to the individual victim in assessing punitive damages, and noted that few awards exceeding a single-digit ratio of punitive to compensatory damages would be constitutional, although there could be exceptions. Now at issue in *Philip Morris USA v. Williams* is whether and how the Supreme Court's limitations in *Gore* and *Campbell* ought to apply to tortfeasors that engaged in what is deemed "extraordinarily reprehensible" conduct.

Though not a traditional topic of private international law, this case is of obvious interest to international practitioners and private international law scholars, as American judgments abroad have long met significant opposition to recognition and enforcement abroad due to the incidence and size of punitive damage awards.

Interesting articles regarding the case and upcoming argument can be found [here](#) and [here](#). The decision of the Oregon Supreme Court below can be found [here](#). As always, we have provided links to both the Petitioner's Brief on the Merits as well as Respondent's Brief. The published oral argument transcript is linked [here](#).