

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

EXXON SHIPPING CO. ET AL. *v.* BAKER ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 07–219. Argued February 27, 2008—Decided June 25, 2008

In 1989, petitioners' (collectively, Exxon) supertanker grounded on a reef off Alaska, spilling millions of gallons of crude oil into Prince William Sound. The accident occurred after the tanker's captain, Joseph Hazelwood—who had a history of alcohol abuse and whose blood still had a high alcohol level 11 hours after the spill—inexplicably exited the bridge, leaving a tricky course correction to unlicensed subordinates. Exxon spent some \$2.1 billion in cleanup efforts, pleaded guilty to criminal violations occasioning fines, settled a civil action by the United States and Alaska for at least \$900 million, and paid another \$303 million in voluntary payments to private parties. Other civil cases were consolidated into this one, brought against Exxon, Hazelwood, and others to recover economic losses suffered by respondents (hereinafter Baker), who depend on Prince William Sound for their livelihoods. At Phase I of the trial, the jury found Exxon and Hazelwood reckless (and thus potentially liable for punitive damages) under instructions providing that a corporation is responsible for the reckless acts of employees acting in a managerial capacity in the scope of their employment. In Phase II, the jury awarded \$287 million in compensatory damages to some of the plaintiffs; others had settled their compensatory claims for \$22.6 million. In Phase III, the jury awarded \$5,000 in punitive damages against Hazelwood and \$5 billion against Exxon. The Ninth Circuit upheld the Phase I jury instruction on corporate liability and ultimately remitted the punitive damages award against Exxon to \$2.5 billion.

Held:

1. Because the Court is equally divided on whether maritime law allows corporate liability for punitive damages based on the acts of managerial agents, it leaves the Ninth Circuit's opinion undisturbed

Syllabus

in this respect. Of course, this disposition is not precedential on the derivative liability question. See, *e.g.*, *Neil v. Biggers*, 409 U. S. 188, 192. Pp. 7–10.

2. The Clean Water Act's water pollution penalties, 33 U. S. C. §1321, do not preempt punitive-damages awards in maritime spill cases. Section 1321(b) protects "navigable waters . . . , adjoining shorelines, . . . [and] natural resources," subject to a saving clause reserving "obligations . . . under any . . . law for damages to any . . . privately owned property resulting from [an oil] discharge," §1321(o). Exxon's admission that the CWA does not displace compensatory remedies for the consequences of water pollution, even those for economic harms, leaves the company with the untenable claim that the CWA somehow preempts punitive damages, but not compensatory damages, for economic loss. Nothing in the statute points to that result, and the Court has rejected similar attempts to sever remedies from their causes of action, see *Silkwood v. Kerr-McGee Corp.*, 464 U. S. 238, 255–256. There is no clear indication of congressional intent to occupy the entire field of pollution remedies, nor is it likely that punitive damages for private harms will have any frustrating effect on the CWA's remedial scheme. Pp. 10–15.

3. 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. Pp. 15–42.

(a) Although legal codes from ancient times through the Middle Ages called for multiple damages for certain especially harmful acts, modern Anglo-American punitive damages have their roots in 18th-century English law and became widely accepted in American courts by the mid-19th century. See, *e.g.*, *Day v. Woodworth*, 13 How. 363, 371. Pp. 16–17.

(b) The prevailing American rule limits punitive damages to cases of "enormity," *Day v. Woodworth*, 13 How. 363, 371, in which a defendant's conduct is outrageous, owing to gross negligence, willful, wanton, and reckless indifference for others' rights, or even more deplorable behavior. The consensus today is that punitive damages are aimed at retribution and deterring harmful conduct. Pp. 17–21.

(c) State regulation of punitive damages varies. A few States award them rarely, or not at all, and others permit them only when authorized by statute. Many States have imposed statutory limits on punitive awards, in the form of absolute monetary caps, a maximum ratio of punitive to compensatory damages, or, frequently, some combination of the two. Pp. 21–23.

(d) American punitive damages have come under criticism in recent decades, but the most recent studies tend to undercut much of it.

Syllabus

Although some studies show the dollar amounts of awards growing over time, even in real terms, most accounts show that the median ratio of punitive to compensatory awards remains less than 1:1. Nor do the data show a marked increase in the percentage of cases with punitive awards. The real problem is the stark unpredictability of punitive awards. Courts are concerned with fairness as consistency, and the available data suggest that the spread between high and low individual awards is unacceptable. The spread in state civil trials is great, and the outlier cases subject defendants to punitive damages that dwarf the corresponding compensatories. The distribution of judge-assessed awards is narrower, but still remarkable. These ranges might be acceptable if they resulted from efforts to reach a generally accepted optimal level of penalty and deterrence in cases involving a wide range of circumstances, but anecdotal evidence suggests that is not the case, see, *e.g.*, *Gore, supra*, at 565, n. 8. Pp. 24–27.

(e) This Court’s response to outlier punitive damages awards has thus far been confined by claims that state-court awards violated due process. See, *e.g.*, *State Farm Mut. Automobile Ins. Co. v. Campbell*, 538 U. S. 408, 425. In contrast, today’s enquiry arises under federal maritime jurisdiction and requires review of a jury award at the level of judge-made federal common law that precedes and should obviate any application of the constitutional standard. In this context, the unpredictability of high punitive awards is in tension with their punitive function because of the implication of unfairness that an eccentrically high punitive verdict carries. A penalty should be reasonably predictable in its severity, so that even Holmes’s “bad man” can look ahead with some ability to know what the stakes are in choosing one course of action or another. And a penalty scheme ought to threaten defendants with a fair probability of suffering in like degree for like damage. Cf. *Koon v. United States*, 518 U. S. 81, 113. Pp. 28–29.

(f) The Court considers three approaches, one verbal and two quantitative, to arrive at a standard for assessing maritime punitive damages. Pp. 29–42.

(i) The Court is skeptical that verbal formulations are the best insurance against unpredictable outlier punitive awards, in light of its experience with attempts to produce consistency in the analogous business of criminal sentencing. Pp. 29–32.

(ii) Thus, the Court looks to quantified limits. The option of setting a hard-dollar punitive cap, however, is rejected because there is no “standard” tort or contract injury, making it difficult to settle upon a particular dollar figure as appropriate across the board; and because a judicially selected dollar cap would carry the serious drawback that the issue might not return to the docket before there was a

Syllabus

need to revisit the figure selected. Pp. 32–39.

(iii) The more promising alternative is to peg punitive awards to compensatory damages using a ratio or maximum multiple. This is the model in many States and in analogous federal statutes allowing multiple damages. The question is what ratio is most appropriate. An acceptable standard can be found in the studies showing the median ratio of punitive to compensatory awards. Those studies reflect the judgments of juries and judges in thousands of cases as to what punitive awards were appropriate in circumstances reflecting the most down to the least blameworthy conduct, from malice and avarice to recklessness to gross negligence. The data in question put the median ratio for the entire gamut at less than 1:1, meaning that the compensatory award exceeds the punitive award in most cases. In a well-functioning system, awards at or below the median would roughly express jurors' sense of reasonable penalties in cases like this one that have no earmarks of exceptional blameworthiness. Accordingly, the Court finds that a 1:1 ratio is a fair upper limit in such maritime cases. Pp. 39–42.

(iv) Applying this standard to the present case, the Court takes for granted the District Court's calculation of the total relevant compensatory damages at \$507.5 million. A punitive-to-compensatory ratio of 1:1 thus yields maximum punitive damages in that amount. P. 42.

472 F. 3d 600 and 490 F. 3d 1066, vacated and remanded.

SOUTER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, and THOMAS, JJ., joined, and in which STEVENS, GINSBURG, and BREYER, JJ., joined, as to Parts I, II, and III. SCALIA, J., filed a concurring opinion, in which THOMAS, J., joined. STEVENS, J., GINSBURG, J., and BREYER, J., filed opinions concurring in part and dissenting in part. ALITO, J., took no part in the consideration or decision of the case.