

PUNITIVES SLASHED IN WYOMING CARBON MONOXIDE CASE

In a win for tort reformers, an appeals court embraces a 1-1 ratio of punitive to compensatory damages.

In a case closely watched by tort reformers, a federal appeals court has whittled a \$25.5 million punitive damages award to \$1.95 million in a carbon monoxide poisoning lawsuit in Wyoming.

Reversing much of the lower court's decision, the U.S. Court of Appeals for the Tenth Circuit on April 1 found that punitive damages in the case were "excessive and arbitrary" in violation of the 14th Amendment's due process clause. The panel vacated punitive damages against one defendant and cut the award against the other, changing the ratio of compensatory to punitive damages to 1-to-1.

The ruling is a victory for the U.S. Chamber of Commerce, which has filed an amicus brief in the case and has been pushing for a 1-1 ratio in cases involving punitive damages since the U.S. Supreme Court's 2003 opinion in *State Farm v. Campbell*, which provided general guideposts

for apportioning punitive damages.

Plaintiffs lawyer Tyson Logan of The Spence Law Firm did not return a call for comment. Amy Sorenson of Snell & Wilmer, who represented both defendants, declined to comment.

Plaintiff Amber Lompe filed the suit in 2012, claiming that she suffered carbon monoxide poisoning in her apartment. The jury awarded \$1.95 million against the property manager and \$750,000 against the property's owner. In a second phase of trial, the jury awarded the punitive damages. Despite acknowledging that the award was "far greater than usually seen in this district," U.S. District Judge Alan Johnson in 2014 denied the defendants' motion for judgment as a matter of law, prompting the appeal.

In a dissent to the Tenth Circuit's 2-1 opinion, Circuit Judge



Amy Sorenson

Robert Bacharach said the reduced amount against AMC was "too far below the constitutional amount." He suggested \$7.8 million, a ratio of 4-to-1. "AMC recklessly risked the life of every tenant in the entire apartment complex," he wrote.

—AMANDA BRONSTAD