

The Low Road

by John F. Denove

GM Deserves Punitives for Valuing Profit More Than Human Lives

In the race to deliver yet even more astronomical profits for their shareholders, corporations have shunned their duty to the public. How else can one explain General Motors' blatant disregard for the safety of passengers whose lives were reduced to an \$8.59 decision?

That's how much it would have cost to relocate the fuel tank in several GM body types so the cars would not endanger lives in fires resulting from rear end collisions. See *Anderson v. General Motors Corp.*, BC116926 (Los Angeles Superior Court, July 9, 1999). Instead, GM exploited public interest for narrow private gains, risking lives to make the company richer.

Spending less than \$9 a car would have saved Patricia Anderson, her four children and a sixth passenger from the unspeakable agony they endured when their 1979 Chevrolet Malibu burst into flames when it was struck from behind. One of the children, Alisha, had a hand burned off and her ears burned down to the bone. So far, she and an older sister have undergone 70 operations, and each has many more to come.

If GM had not scrimped on the fuel-tank design, the worst injury among the passengers would have been two broken legs. The victims would have been able to hobble away from the crash, instead of being pulled from the raging inferno.

Before GM made the deliberate decision to manufacture a deadly fuel tank, the corporation did the math.

According to its calculations — supported by internal memos and documents exposed at trial — GM figured it was more profitable to let people burn and fight the lawsuits than to spend the few dollars a car to save drivers and passengers from perishing in what are foreseeable rear- end collisions.

Each person who would foreseeably burn to death or suffer disfigurement, in GM's memos, was described as a "unit." Each unit — each human life — was assigned a worth of \$200,000, the price GM obtained from its own legal department. From a profit standpoint, therefore, GM decided to spend no more than \$2.40 on each fuel tank, despite the significant risks it would pose for its customers who bought certain GM cars.

What GM had not calculated in its tidy value analysis was the justifiable verdict of a Los Angeles jury, which hit the auto maker with \$4.8 billion in punitive damages. It's a whopping sum, certainly, but punitive damages are meant to hurt enough to change corporate conduct

The GM award amounts to less than two weeks' revenue for the giant company, which, according to *Fortune* magazine, is the world's largest corporation. At the time of the verdict, GM had a market capitalization value of more than \$45 billion, \$12 billion cash on hand and immediate credit available of \$13.7 billion. Its advertising budget alone is more than \$4 billion for a two- year period.

So-called tort reformers point to the GM verdict and others as evidence of an out-of-control legal system, but they are deliberately missing the mark. It's the corporations that have subverted the system for their own gain, losing sight of the interests of the consumers who account for the corporations' profits.

Consumer attorneys in California have tried for years to enact legislation that would reserve a significant portion of punitive damage awards for the public good, but corporate defenders have blocked the idea at every turn. Instead, big business makes scapegoats out of the victims and their attorneys, likening the awards that result from corporate wrongdoing to lottery wins.

Although the strategy has served them well, it has unnecessarily risked lives in the process. Punitive damages, rather than being used as a lightning rod in the tort-reform debate, should be employed as a tool to improve the lives of all people. In lieu of such legislation, the victims and their attorneys in the GM case are donating half of any punitive damages collected to the state of California for programs that benefit burn victims and the public as a whole.

Tort reformers shudder at the prospect, but it's time to introduce a modicum of accountability for corporations accustomed to punitive damage awards that barely register on their radar screens. That the awards could help everyone is all the more reason to establish laws that restore a more even balance between profits and human lives

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