

Free essay on jury selection

[Law](#), [Evidence](#)



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Introduction

A large amount of literature has examined the ability of jurors to make proper decisions regarding punitive damages in contract law. Opponents of punitive damages assert that juries are not able to understand the complexities of legal issues and, therefore, use extensive punitive damages against individuals or corporations based on emotions rather than as reasonable response to the damages occurred. They argue that judges have the legal competence and experience to make more informed decisions. Punitive damages have been traditionally awarded to plaintiffs in tort actions and it has been assumed for long that punitive damages cannot be implemented in breach of contract cases. Observations made by some researchers suggest that judges exercise more moderation than juries in the award of punitive measures. However, Eisenberg and Heise (327) assert that these researchers have not factored in the predictive effect of punitive damage awards on compensatory damage awards. There is no empirical support for differences between jury and judge damage awards when this

predictive relationship is factored in as it should be. This paper examines and provides evidence to show that a jury is not predisposed to awarding more damages than a judge can award in a bench trial.

Juries are competent and consistent

Despite public opinion to the contrary, empirical studies show that juries are capable, fair in decision-making and affective in weighing the complexities of a contract case. According to Hans and Vidmar (50), report that jurors' collective and individual comprehension and recall of evidence are remarkably substantial. The opposition to the extent of damages awarded by juries as opposed to that of bench judges has taken several fronts. First, some have claimed that juries tend to be swayed by expert opinion rather than the evidence provided. However, this is not the case. Jurors examine and evaluate the content to check the consistency provided in testimonies by lay as well as expert witnesses. Jurors do not simply approve what experts say. A high amount of evidence suggests that juries are fair in their assessment of the level of crime, claiming that the punishment fits the crime.

The second allegation made under the claim of unsubstantiated awards by juries is that the damages awarded are not commensurate to the extent of wrongdoing as is the case for judges. Contrary to this is that juries have been remarkably consistent as the relationship between punitive and compensatory damages indicates (Hyman et al 25). According to Hans and Vidmar (12), the weight of the evidence presented is the main determinant in jury verdicts. This is despite the claim that juries are influenced by emotion or expert advice presented in court to make their judgment. In the same vein, damage awards are greatly related to the extent of wrongdoing

in a contract. This means that the higher the degree of wrongdoing, the higher the damage award is. Eaton (436) conducted a survey in Georgia. The findings show that 97% of respondents specified that jury verdicts were only disproportionately high in 0-5% of courtroom cases between 2003 and 2005. Respondents did not feel that the damages awarded greatly exceeded the evidence-based amounts. The use of remittiturs (orders by a judge to reduce the damage award given) did not exceed 0-5% within a period of 2 years (Eaton 436). This implies that this reasonable pattern in the decisions made by juries can serve to reassure skeptics.

The third point on the claim of unsubstantiated awards by juries as compared to bench judges is that juries are not competent enough to understand the complexities of some contract cases. Hans and Vidmar found out that judges are usually in agreement with the verdicts made by juries in most cases. Most judges agree that jurors attempt to apply the law in the best way possible and that they do not rely on emotion or feeling rather than on the law when deciding on a verdict. A recent survey conducted by Baylor University on Texas state district court judges reveals tremendous support for juries (Terry 61). More than 83% of respondents did not observe any incidence where juries awarded excessive contract damages within a period of 4 years. In addition, between 2007 and 2011, 86% of the judges had not granted relief to a defendant as a result of excessive damages (Hans and Vidmar 226). Juries understand the evidence presented in court. However, there are differences in application of values to certain case issues. It is important to note that juries apply community standards to court issues while judges use their technical knowledge of the law (legal standards).

Detailed interviews conducted on jurors after the passing of a verdict demonstrate that juries conduct critical and careful analysis. Experts are chosen using an adversary process where sensible techniques are used to assess the testimony of the experts such as their consistency and completeness in the context of other evidence provided.

The fourth reason disputing the claim that juries are likely to award more damages in contract cases than bench judges is that the types of cases handled is different. The differences in the streams of cases that make their way to judges and juries help to account for the great disparities in jury and bench trials. It is noted that juries received more tort cases than contract cases while judges handled more contract cases than tort cases. This implies that by default, juries are likely to be seen as awarding higher damages in contract cases than judges because the number of contract cases handled by juries is substantially higher than that handled by judges. This is undergirded by the findings of the Bureau of Justice statistics made in 2005 (Cohen 4). Eisenberg, Hannaford, Heise et al (263) assert that as a result of the different case streams, it is difficult to establish a concrete statement that explains how juries and judges would behave if they handled similar cases. Eisenberg, Hannaford, Heise et al (266) present data from 1991 to 2001 with special emphasis on the correlation between punitive and compensatory damages. The data reveals that the compensatory award acts as a dominant predictor for the punitive award. This finding applies to both juries and judges.

Eisenberg, Hannaford, Heise et al (263) analyzed numerous trials for over a decade. Their findings indicate that the awards made by judges and juries

are in approximately the same extent. They found out from studies that there was no substantial statistical evidence to suggest that juries and judges behaved in a different manner when dealing with cases.

Punitive and compensatory damage relationship

Eisenberg and Heise (328) found out, through empirical studies, that there is a variation in punitive damages is largely influenced by the variation in the compensatory award underlying it. They also state that juries and judges perform in different manner in particular punitive damage verdicts and similarly in others. There is no evidence to suggest that juries and judges award damages in a different manner. However, they discover a relationship between the amount of the punitive award and the amount of the compensatory award. The results indicate that judges are more inclined to award punitive damages where cases involve bodily harm/ injury. On the other hand, juries are more inclined to give punitive damages where plaintiffs do not suffer body injuries.

Conclusion

Opponents of punitive damages assert that juries are not able to understand the complexities involved in legal cases. They claim that juries award extensive punitive damages against individuals or corporations based on emotions rather than as reasonable response to the damages occurred. However, this paper presents arguments against this claim by asserting that juries are competent and consistent in their methods of awarding damages in contract cases. In addition, Eisenberg and Heise (328) found out, through empirical studies, that there is a variation in punitive damages is largely

influenced by the variation in the compensatory award underlying it. This relationship may be responsible for apparent differences in awards of damages. Moreover, juries and judges receive different case streams. According to Eisenberg and Heise (328), these disparities in extent of damages awarded by judges and juries are substantially influenced by these differences.

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