

THE SOCIAL COSTS OF PUNITIVE DAMAGES AGAINST
CORPORATIONS IN ENVIRONMENTAL AND SAFETY TORT

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ABSTRACT

Legal scholars and judges have long expressed concerns over the unpredictability and arbitrariness of punitive damages awards. Proposed remedies, such as restricting punitive damages to narrowly defined circumstances, have not yet met with success. This paper addresses the threshold issue of whether, on balance, punitive damages have benefits in excess of their costs. There is no evidence of a significant deterrent effect based on an original empirical analysis of a wide range of risk measures for the states with and without punitive damages. These measures included accident rates, chemical spills, medical malpractice injuries, insurance performance, and other outcomes that should be affected by punitive damages, but which are not. Punitive damages can and do cause substantial economic harm through their random infliction of economic penalties.

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