



Jury's verdict not the last word on punitive damages

\$185 million award in San Diego County case will be reduced

SACRAMENTO (Nov. 21, 2014) – A San Diego County Superior Court jury did exactly what it set out to do when it returned a \$185 million punitive damages verdict Monday against retail giant AutoZone for blatant employment discrimination: it drew attention to a corporation with a serious workplace problem in need of reform.

The big award, however, also drew criticism from some corners of the news media simply because of its size. Such criticism ignored a legal reality: Because of legal precedent, such big punitive damages awards are inevitably scaled back to a fraction of what was ordered by a jury.

Citizen juries turn to punitive awards only in the most troublesome cases, in which a defendant's actions warrant the most extreme form of punishment meted out by the civil justice system. Without the eye-catching punitive award, AutoZone's misdeeds may have gone largely ignored and certainly never would have reached the worldwide audience that has been drawn to the size of the verdict.

This is a case where a citizen jury, representing the conscience of San Diego County, came to the unanimous conclusion that AutoZone's actions deserved far more than a figurative slap on the wrist. The jurors decided a stronger message was warranted after they heard a former district manager testify he was offered a promotion if he fired all the women working at his stores. Even the *U-T San Diego* editorial board, which attacked the verdict in [an editorial Thursday](#), noted there was "compelling, disturbing evidence" that Ms. Juarez was a victim of gender discrimination.

The jury did the only thing it could do to show AutoZone's board of directors how disgusted it was by the company's conduct: it issued a punitive damages verdict that represents less than two percent of AutoZone's \$9.5 billion in sales in the most recent fiscal year. Investors were so unconcerned about the verdict that AutoZone's stock price actually went up when the market opened the day after the verdict was announced.

But nobody at AutoZone is expecting to write a check for \$185 million. As *Wall Street Journal* reporter Jacob Gershman [wrote](#), "The verdict is a good reminder that when juries award blockbuster damages, they're telling a company that they *should* fork over that much money. But juries don't get the final word."

Appellate courts have a great deal of discretion to reduce punitive damages awards, after [a 2003 ruling by the U.S. Supreme Court](#) that, as a general rule, punitive damages should be no more than nine times the amount of compensatory damages awarded in the case. (Ms. Juarez was awarded nearly \$900,000 in compensatory damages for being demoted and later fired after being told she couldn't perform her store manager duties properly in her "situation" – the "situation"

being that she was pregnant. Under the Supreme Court's formula, punitive damages would be limited to about \$8 million, less than five percent of what the jury awarded.)

AutoZone has the right to appeal the verdict, including the finding that they were at fault in Ms. Juarez's case, and judges may independently decide to reduce the verdict. Or attorneys for the company and Ms. Juarez may reach a mutually agreeable settlement to end the case. In any event, no one involved expects anything close to \$185 million to change hands.

It makes no sense to talk about about "runaway juries" and "preposterous" damage awards until the case has resolved. Nor is it right to say this verdict will "further add to California's reputation as a risky place to do business," as the *U-T San Diego* editorial board wrote, when every corporate executive who has a legal department knows this verdict will be reduced.

Of course, there is one surefire way to avoid the possibility of facing \$185 million in punitive damages. Don't treat women the way AutoZone did.

Consumer Attorneys of California is a professional organization of plaintiffs' attorneys representing consumers seeking accountability against wrongdoers in cases involving personal injury, product liability, environmental degradation and other causes.

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