RICE UNIVERSITY

Factors Affecting the Compartmentalization of Punitive and Compensatory Damages

by

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ABSTRACT

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This study examines the effects of the amount of pain and suffering awards, the recipient of the punitive award, and the inclusion company profit information on the compartmentalization of punitive damage awards. Participants (N = 245) read three personal injury scenarios, filled out a demographic and attitudinal survey, and awarded punitive damages for each scenario. Results revealed that when profit information was not given, participants exhibited leakage effects. That is, participants awarded significantly more punitive damages when pain and suffering was high and significantly less when it was low in the absence of profit information. When profit information was present, however, there was no effect of the level of pain and suffering; participants compartmentalized their punitive damage decisions. Award variance was also significantly higher when pain and suffering was high and profit information absent than when profit information was given.
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Introduction

The present study focuses on decisions regarding punitive damages. The law intends for punitive decisions to be made independently of compensatory damage award amounts. In practice, however, research indicates that jurors may not always compartmentalize the two. Accordingly, the work reported here explores the nature of “leakage” between the decisions. Leakage can be conceptualized as occurring when the amount awarded for compensatory damages influences punitive award levels. Specifically, factors that influence the amount of punitive damages awarded, as well as factors that may influence the extent to which leakage occurs will be investigated.

In civil litigation juries are required to make decisions regarding liability, economic damages, non-economic damages, and at times, punitive damages. Compensatory damages take into account the economic losses of the plaintiff such as medical bills and lost wages as well as the plaintiff’s non-economic losses (i.e., pain and suffering). Compensatory damages are intended to restore the plaintiff to their prior level of functioning. The focus shifts to the defendant, however, when considering punitive damages (Anderson & MacCoun, 1999). These damage awards are designed to punish the defendant for grossly inappropriate behavior and deter similar conduct in the future. Punitive damages are not meant to further compensate the plaintiff.

In deciding pain and suffering and punitive damages, jurors have little or no basis for transforming their desire to compensate or punish into a dollar amount. Unlike the economic portion of compensatory damages in which an economist is able to estimate economic costs to the plaintiff, there is not an expert qualified to equate the components of pain and suffering (i.e., bodily harm, emotional distress, loss of enjoyment of life) to a
dollar amount. Like the pain and suffering component of compensatory damage awards, there is no agreed upon metric to translate defendant egregiousness to a punitive dollar award. This lack of hard, fast rules or metrics leaves both punitive damages and pain and suffering awards open to biases.

*Jury Decisions: Background*

Both pain and suffering awards and punitive damages have been two hotly contested areas of the civil justice reform debate. Pain and suffering, it has been argued, is immeasurable, and consequently the awards given by juries are haphazard. Another complaint is that juries allow other, unrelated details, such as the reprehensibility of the defendant, to influence their decisions regarding the magnitude of harm and the commensurate award. The propensity of jurors to permit factors such as the plaintiff attorney’s request for compensation, or ad damnum, to set the level of the pain and suffering award has also been questioned.

The argument surrounding punitive damages has been strikingly similar. A popular claim has been that the jury is “out of control,” in particular with respect to punitive damages. Outrageous punitive awards have received considerable media attention over the past several years. Large verdicts such as the McDonald’s coffee burn case, which garnered a $160,000 compensatory award and a $2.7 million punitive award, are often cited as “evidence” that the jury needs to be reigned in (*Liebeck v. McDonald’s Corp.*, 1994). Pursuant to this belief, as of 1996, 30 states had enacted some sort of punitive damage reform designed to limit either the magnitude or occurrence of awards (U.S. Department of Justice, 2000).
In addition to being perceived as outrageously large, punitive damages have also been labeled as frequent and random. This criticism, however, has repeatedly proven to be unfounded (e.g., Daniels & Martin, 1990; Eisenberg, Goerdt, Ostrom, Rottman, & Wells, 1997; Moller, Pace, & Carroll, 1997). Upon examination of one year’s jury trial outcomes from the nation’s 45 largest counties, Eisenberg, et al. (1997) found a discernable pattern in punitive damages. Punitive damages were, in fact, strongly correlated to compensatory damages. Further, punitive damages are actually rare, especially in cases that have received considerable media attention, such as medical malpractice and products liability. Punitive damages are most frequently awarded in cases with financial, rather than personal, damages such as intentional tort and business/contract cases (Eisenberg et al., 1997; Moller et al, 1997).

A subject for enduring debate, however, has been the variability of punitive awards. Similar offenses garner a wide range of punitive damage awards even in cases where defendants are of comparable wealth (Greene, 1989). This issue seems to have no clear resolution as one side clamors for normality and the other argues that unpredictability aids in deterrence (e.g., Garber, 1998; Koenig & Rustad, 1993).

Jurors have also been accused of being overly sympathetic to plaintiffs that were wronged by corporate defendants and of expressing that sympathy by inflating compensatory damage awards. Researchers, however, have found no evidence of this so-called “deep-pockets” effect on compensatory awards (MacCoun, 1996; Vidmar, 1995; Robbenolt, 2002). Juries generally use the defendant’s financial status only in the determination of punitive awards, as the law intends (e.g. Robbenolt, 2002). Attorney recommendations, however, have no legal basis and have been observed to have marked
effects on both compensatory and punitive awards (e.g. Marti & Wissler, 2000; Hastie et al., 1999).

**Interdependence of Punitive and Compensatory Awards**

According to the U.S. Supreme Court, punitive damages should be in some way related to compensatory awards (BMW of North America v. Gore, 1996). That is, the amount of compensatory damages serves as a measure of the amount of harm the defendant caused and the magnitude of punitive damages levied against a defendant should in some way reflect that harm. This relationship may not be direct, as jurors should also consider the amount of harm that could potentially be caused by the Defendant (TXO Production Corp v. Alliance Resources Corp., 1993). Despite the stance of the Supreme Court, critics maintain that injury severity should not influence punitive awards (Galanter & Luban, 1993). The inclusion of actual as well as potential harm, they argue, leaves punitive damage determinations vague and open to biases. Further, jury instructions tend to focus more on the definition of wanton and reckless conduct, the necessary criteria for punitive damages, than on the implicit relatedness of compensatory and punitive damages.

When faced with such an uncertain decision, jurors may not be able to compartmentalize the decisions they are asked to make (for a review see Greene, 1989). That is, they may allow inappropriate evidence to influence their decision. In the case of compensatory damages, Wissler, Rector, and Saks (2001) found that participants tended to fuse liability and economic decisions even when presented with a bifurcated trial, where these decisions are made separately. They found that only when instructions were expanded that specifically cautioned against discounting awards for uncertainty about the
defendant’s guilt and surcharging to punish the defendant’s carelessness did participants fail to exhibit fusion of the two decisions.

Other evidence regarding leakage between compensatory and punitive damages, however, has been less clear cut. Defendant wealth and malicious conduct, punitive evidence, has been speculated to unduly influence compensatory awards by way of pain and suffering (e.g., Ghiardi & Kircher, 1987; Koenig & Rustad, 1993). While there has been some evidence that the character of the defendant affects the liability judgments of potential jurors (Resnick, Tschen, & Kalsher, 1999), Greene, Woody, and Winter (2000), found no evidence that such factors affected pain and suffering award levels. In their study, only punitive damages, as sanctioned by law, were influenced by the wealth of the defendant and their conduct. Additionally, Greene et al. (2000) unexpectedly found punitive awards to be higher when the trial was bifurcated, where material pertaining to punitive damages is presented separately from compensatory evidence. This suggests jurors may be augmenting the award to account for not having all of the information regarding the defendant’s conduct when making the compensatory decision.

Correspondingly, the evidence relating injury severity, to punitive awards has also been unclear. In a review of products liability cases exclusively, Koenig and Rustad (1993) found that only seriously injured plaintiffs received punitive damages and those damages were correlated with the degree of injury. Other researchers, however, did not replicate this finding experimentally. Cather, Greene, and Durham (1996) found participants were able to ignore evidence regarding plaintiff’s injuries; consequently not taking such evidence into account when deciding punitive damages. In their study compensatory awards, oddly, were also not effected by injury severity. This finding is
puzzling; however, it may imply that since jurors awarded punitive damages, they felt no need to inflate compensatory damages to account for injury when the plaintiff would receive a large sum of money anyway.

The Greene, Woody, and Winter (2000) study, where punitive damages were higher in bifurcated trials, as well as the Cather, Greene, and Durham (1996) study suggest jurors may look for an appropriate total award, and not divide their decisions as the law intends. The concept of a total award is further illustrated by an earlier Hastie, Schkade, and Payne (1998) study, which examined the decisions of 121 six-member mock juries. These juries reviewed summaries of previously decided trials and were asked to decide if punitive damages were warranted. Most of the juries felt punitive damages were appropriate; however, trial judges felt they were not warranted. Interestingly, if during deliberations, a juror mentioned that compensatory damages had already been awarded, the jury was less likely to award punitive damages. Hastie et al. (1998) proposed that jurors may treat the legal concepts as interchangeable rather than independent, especially when the plaintiff is the recipient of the punitive award.

*Windfall Effects*

Ostensibly, a factor that may leak into punitive reasoning is the amount of compensatory damages awarded the plaintiff, especially if jurors have a total plaintiff’s award in mind. Recall that, by definition, the compensatory award is intended to compensate the plaintiff for losses, physical and otherwise. If that is truly the case, a juror may question why the plaintiff should receive excessive compensation, a windfall, in the form of punitive damages. Anderson and MacCoun (1999) speculate that as punitive damages are awarded after the compensatory award has been decided, jurors may
consequently alter their award to account for the previous compensation of the plaintiff in order to prevent a new injustice.

For instance, when deciding pain and suffering damages, jurors may decide how the plaintiff’s investment, in the form of lost enjoyment of life, maps unto an appropriate award. The focus then turns to the defendant, as jurors separately transform the defendant’s egregious acts into an appropriate monetary fine. However, if punitive damage allocations are instead viewed as further compensation for the plaintiff, such allocations may be considered as an unjust reward. Since the mapping of punitive intent unto a dollar scale is sufficiently ambiguous to be open to biases (Kahneman, Schkade, & Sunstein, 1998; Markovsky, 1988), jurors must focus on punishing the defendant, without consideration of any monies already awarded to the plaintiff so as to avoid discounting punitive damage awards. According to the logic of windfall avoidance, large punitive awards will not be considered just if the amount of compensatory damages comes under contemplation.

A suggested procedure for avoiding windfall effects is to award punitive damages to a party other than the plaintiff. In the past, critics have held this idea to be “so outrageous a remedy that it [did] not require serious attention” (Guinther, 1988, p.188). However, beginning in 1987, eight states have enacted legislation that awards all or part of punitive damages to a state fund (American Tort Reform Association, n.d.; Anderson & MacCoun, 1999). While this appears to be a growing trend in jury reform, there has been very little empirical study that examines jury decision making within this context (for exceptions see Anderson & MacCoun, 1999; Baron & Ritov, 1993).
The present study is partially motivated by Anderson and MacCoun's recent work on the recipient of punitive damages (1999). In their study, participants reviewed a products' liability case and first awarded compensatory damages then decided whether or not punitive damages were warranted, and if so, how much. They found participants were more likely to award punitive damages when the plaintiff was the recipient rather than the State of California (i.e., state treasury, or a consortium of state sanctioned charity funds). However, as participants awarded both compensatory and punitive damages, the nature of leakage between the two is still obscure. Presumably, you would not expect to elicit windfall effects, as participants were able to allocate an adequate total award.

This research attempts to clarify the issue by manipulating both the amount of pain and suffering damages awarded in addition to the recipient of punitive award (i.e., plaintiff or a third party). By keeping the amount of economic damages and the severity of the plaintiff's injury constant, the amount of harm inflicted by the defendant is kept constant. The magnitude of the compensatory award is inflated solely by manipulating pain and suffering damages, without changing the facts of the case. As such, in the current study, one would only expect award amounts to be differential as a function of recipient and the amount of compensatory damages if participants were engaging in windfall avoidance and accordingly had a total award in mind. The relationship between harm inflicted and punishment, as set forth by the Supreme Court, should not vary as harm will be held constant.

*Anchoring*

As jurors are required to consider a great deal of information, they are likely to rely on heuristics (Arkes, 1989). The anchor and adjust heuristic is a commonly exhibited
bias in decision making under uncertainty. In such cases, an arbitrary anchor inordinately influences decision-makers (Tversky & Kahneman, 1974). In the case of jury decision making, jurors presumably begin with an initial value and adjust to arrive at their final decision. According to Markovsky (1998), in order to display anchoring effects, the criteria necessary to map a stimulus onto a given scale should be ambiguous and the anchor presented should be salient. Such is the case when deciding punitive damages as well as pain and suffering awards, as there are no established principles that guide jurors in deciding an appropriate dollar figure as punishment.

Pursuant with the anchor and adjust heuristic, a pervasive observation in pain and suffering award research is that “the more you ask for the more you get.” The amount requested by the plaintiff’s attorney, or ad damnum has been demonstrated to be a salient anchor when deciding personal injury damages (Chapman & Bornstein, 1996). Often, jurors select an award that matches this request exactly (Raitz, Greene, Goodman, & Loftus, 1990). Other anchors have also been demonstrated to influence mock jurors. Laughery, Paige, Bean, & Wogalter (2001) demonstrated that the mere suggestion of a daily rate to consider when figuring pain and suffering awards proved to be a powerful anchor. The higher the recommended day rate, the higher pain and suffering awarded to the plaintiff.

A similar effect has also been observed with specific regard to punitive damages. The plaintiff’s ad damnum for awards had a profound effect on punitive awards in a study done by Hastie, Schkade, and Payne (1999). Their results mirrored those of pain and suffering studies in that higher requests yielded higher awards. One method of reform that has been adopted in many states, specific limits on the amount of punitive damages,
has been shown to serve as yet another anchor for punitive damages (Robbenolt & Studebaker, 1999). The outcome was the same: the higher the anchor, the greater the size and variability of punitive awards.

Kahneman et al. (1998) found that while anchors distort punitive damage awards, they do not distort the internal judgment of punitive intent. That is, when presented with differing anchors, dollar awards varied greatly; however, ratings of intent to punish exhibited very little variance. They conclude that since jurors have little, if any experience in mapping punitive intent onto dollars, the dollar scale is a “noisy expression of punitive intent” (p.51). That is, jurors seem to be in concurrence in terms of their ratings of punitive intent; however, the discontinuity occurs when mapping onto the dollar scale.

Defendant Wealth. The wealth of the defendant is a permissible consideration when awarding punitive damages. Information regarding the defendant’s financial status provides a context in which to determine an appropriate award. In fact, one state, Kansas, defines its punitive limit in terms of the lesser of the defendant’s annual income or $5,000,000 (American Tort Reform Association, n.d.).

As mentioned, defendant wealth information has been shown to be a salient anchor for punitive damage awards while leaving compensatory awards unaffected (Greene, Woody, & Winter, 2000). The present study attempts to further discern the nature of this anchoring effect by examining defendant wealth in the context of the proposed leakage between compensatory and punitive awards. Particularly, if defendant profit information proves to be a salient anchor, it should adequately shift jurors’ focus to the defendant when determining punitive damages. That is, defendant wealth information
may assist jurors in compartmentalizing compensatory and punitive damage award decisions.

Further, the addition of financial information may serve as a decision making aid for potential jurors. Considering that punitive damage awards have been demonstrated to be infrequent and positively skewed, a desirable situation would limit award variance, but not award magnitude. Saks, Hollinger, Wissler, Evans, and Hart (1997) examined this general premise by comparing various decision-making aids to court imposed caps on the pain and suffering component of compensatory damages. They found a reduction in award variability with the use of decision-making aids.

As information regarding the defendant’s financial status is presently admissible when a punitive damage award is under consideration, this may be a less invasive strategy to remedy individual juror award variance. To the author’s knowledge the effects of the defendant’s financial status on the variability of punitive awards has not been examined.

**Statement of the Problem**

The law intends for punitive decisions to be made separately from, yet bear some resemblance to, compensatory damages; that is, the amount of punitive damages should reflect the amount of harm inflicted by the defendant. However, the magnitude of pain and suffering damages alone should not cause jurors to surcharge or discount their punitive awards when the amount of harm inflicted by the defendant remains constant\(^1\).

Nonetheless, jurors may not compartmentalize the two decisions in effort to preserve, or

\(^1\) Although it has been speculated that anchors, particularly the amount of attorney pain and suffering award requests, may distort jurors perceptions of harm inflicted (Higgins & King, 1981; Wyer & Srull, 1989 both as cited in Marti & Wissler, 2000) Marti and Wissler (2000) found that participants' ratings of injury severity did not vary as a function of such anchors.
create, some form of equity in their decisions. Several researchers have speculated that jurors do not separate the decisions, because they treat the concepts of punishment and compensation as interchangeable (e.g. Hastie et al., 1998; Greene, Woody, & Winter, 2000). There has not, however, been an experimental attempt to discern when leakage, opposed to compartmentalization, occurs in the determination of punitive damages.

This study will examine the effects of three variables on punitive damages:

- the amount awarded for pain and suffering
- the recipient of punitive damages
- and the inclusion of profit information

Additionally, individual difference variables will be examined as potential influences on damage award amounts. The Global Belief in a Just World scale (GBJWS; Lipkus, 1991), which taps into the same construct as Rubin and Peplau’s (1975) original scale, will be included as one such variable. Although belief in a just world has been speculated to be an important factor in criminal juror attitudes (Kassin & Wrightman, 1983), its relationship to civil damage award decisions has not been examined.

Participants will be presented with liability information, economic and pain and suffering awards, information regarding who is to receive the punitive award, and information regarding the defendant’s wealth (i.e. profits). Three case scenarios will be used as a precaution against the effects of a particular case and to increase the generalizability of this study.

H1: The level of the pain and suffering award will interact with the recipient of punitive damages. Specifically, as follows from windfall avoidance, the conditions where punitive damages go to the plaintiff, potential jurors will allocate more punitive damages when the
pain and suffering award is low than when it is high. Since the windfall concept does not apply, there will be no effect of compensatory award levels when punitive damages go to an entity other than the plaintiff.

H2: Profit information will interact with the level of pain and suffering such that when profit information is present, pain and suffering award amounts should not have an effect on punitive damage awards.

H3: Providing defendant wealth information will result in decreased award variability.
Method

Participants

245 students (125 male, 119 female, 1 unreported) from Rice University, University of Houston, North Carolina State University, and Houston Community College participated in this study. Participants ranged from 17 to 53 years of age ($M = 20.70$, $S.D. = 4.17$). Approximately one half ($n = 121$) of the participants were minority. Specifically, there were 34 Black, 49 Hispanic, 21 Asian, 6 biracial, and 11 participants that classified themselves as “other.” Participants received course credit for their participation. Two packets were incomplete (i.e. only demographic information was completed) and were excluded from analysis.

Materials

Each experimental packet contained instructions, three scenarios, and a questionnaire. The instructions included the definition of both compensatory and punitive damages. There was also a quote pertaining specifically to punitive damages, taken from Texas’ Exemplary Damage Definitions (1987 & 1995) included at the end of the instructions. Instructions are included in Appendix A.

The scenarios depict three different lawsuits in which the plaintiff was injured and punitive damages are to be awarded. Three different scenarios were included in effort to increase generalizability by decreasing the likelihood that significant results were due to artifacts of any individual scenario. The first, referred to hereafter as scenario BT (the plaintiff’s initials), involves a products liability case in which a faulty design and poor attention to safety precautions led to a workplace accident. The plaintiff suffered from permanent lower body paralysis and was confined to a wheelchair as a result of the
accident. The second scenario, SM, details a contract violation that ultimately resulted in a fire, badly burning the plaintiff. The final scenario, JF, describes an automobile accident caused by a derelict company policy. The plaintiff in this case suffered some brain damage and lost his arm. Each scenario also includes an expert economist’s testimony as to the economic damages. Appendix B includes all scenarios in all conditions. The condition for each scenario is indicated in the scenario title heading (this information was not supplied to participants).

The questionnaire obtained demographic information including participants’ age, gender, race, academic major, family income, and political affiliation. A portion of the questionnaire assessed participants’ attitudes toward civil litigation. These 16 statements are exploratory and were assembled upon review of the open ended responses obtained from participants in a previous study (Laughery, Paige, Wogalter, & Bean, 2001) as well as responses to open ended items in a pilot test of the current study. Prior attitudinal scale development has focused on the insurance crisis of the early 90s purportedly generated by increased litigation (Hans & Lofquist, 1994). As the participants in the current study may not be aware of such a crisis, the new scale was employed. Participants indicated their agreement with the statements using a seven point Likert scale. This portion of the questionnaire was completed by 228 participants. The demographics and attitude questionnaire are given in Appendix C.

The third portion of the questionnaire contained Lipkus’ GBJWS (1991). The original scale developed by Rubin and Peplau (1975) was not used as it has been plagued with reliability issues as well as multidimensionality (e.g. Lipkus, 1991; Whatley, 1993). Participants indicated the amount of their agreement with the seven items using a six
point Likert scale. The final portion of the questionnaire asked participants to indicate which statement (of five) most closely identified their strategy in determining the amount of punitive damages to award. These final elements are presented in Appendix D.

Procedure

The order of the scenarios was counterbalanced within each packet as a precaution against order effects. After completing consent forms and being randomly assigned to condition, participants were given the sixteen-page packet and instructed to follow the directions on the first page, which directed them to read the three scenarios and award punitive damages. These awards were not constrained in any way, so a participant was free to award $0. Participants were told not to talk amongst themselves as this was an individual task. Participants were thanked for their involvement and debriefed. Participation took approximately 45 minutes.

Design

This study consisted of a 2 X 2 X 2 X 3 mixed factorial design. The first between subjects factor, recipient, had two levels: either punitive damages are awarded to the plaintiff or a research fund. The second factor, wealth, was also a dichotomous between subjects variable. As the defendant in each of the scenarios was a corporate entity, this information is relayed in the form of company profits, which were either present or absent from the scenario. The third between subjects factor was the amount of pain and suffering damages already awarded to the plaintiff. The values for this manipulation were established through a pilot test in which participants were asked to award pain and suffering to the plaintiffs depicted in each scenario. The values at the 25th and 75th percentiles of the pilot distribution were combined with the economic damages (these
were given by the economist and did not vary between condition) and used as the low and high compensatory awards (see Table 1 for values used in each scenario). The final factor, scenario, was within subjects and consisted of the three different case descriptions. These variables combined to form eight between-subjects conditions.

Table 1. Values used as the amounts of pain and suffering to manipulate low and high compensatory awards.

<table>
<thead>
<tr>
<th></th>
<th>High (75th Percentile)</th>
<th>Low (25th Percentile)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brian Tanner (BT)</td>
<td>$5,000,000</td>
<td>$900,000</td>
</tr>
<tr>
<td>Jacob Foley (JF)</td>
<td>5,000,000</td>
<td>650,000</td>
</tr>
<tr>
<td>Sally Morris (SM)</td>
<td>5,437,500</td>
<td>237,500</td>
</tr>
</tbody>
</table>

Scenarios were identical between condition accept for amount of pain and suffering awarded, whether or not a statement was included that revealed the company’s profits, and the final paragraph in which the recipient manipulation occurs. The pain and suffering manipulation was located in the paragraph after the expert economist presents the values for economic damages. The company profit manipulation consisted of a sentence just prior to the final paragraph that either appeared or was absent. In order to manipulate the recipient of the punitive damages, two versions of the final sentence were used:

1. “In the state where the trial is being held, punitive damages go to a fund that must be used for research on public safety and health issues. The fund is administered by a board appointed by the Governor”

2. “In the state where the trial is being held, punitive damages go to the plaintiff.”
Results

Visual inspection of the data revealed an extreme positive skew. While most values were low, the means for each scenario were inflated and had large standard deviations due to the presence of outliers (Table 2). Prior to analysis, observations greater than three standard deviations from the grand mean of each scenario were removed. This resulted in the elimination of data from seven participants (N = 236). This method is preferable to methods of normalization as these data are not normally distributed in the population and it is further thought that in the course of deliberations such outliers would be similarly influenced by other jurors. Trimmed means and standard deviations are also given in Table 2. Means, standard errors, and cell sizes are given in Table 3.

The data were analyzed using a 2 (Profit) X 2 (Level of Pain and Suffering) X 2 (Recipient) X 4 (Scenario) Repeated ANOVA with scenario as the only within subjects variable. An alpha level of .05 was used for all statistical tests. All F values and corresponding statistics are shown in the ANOVA table given in Table 4.

There were no significant main effects of the three independent variables. There was, however, a significant effect of scenario, $F(2, 227) = 7.17, p < .01 \, \eta^2 = .06^2$. Punitive awards in the SM scenario were significantly greater than JF or BT, which did not significantly differ (Table 5). As the scenarios differed along a number of dimensions, this effect is not surprising.

The interaction of recipient and level of pain and suffering was not reliable, $F(1,228) = 1.36, p > .05 \, \eta^2 = .006$. Thus, Hypothesis 1, that punitive awards would differ according to the level of pain and suffering when awarded to the plaintiff, was not

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$\eta^2$ is a measure of effect size. Specifically, it is the proportion of the variance observed in the dependant variable that is accounted for by a factor or by an interaction of factors.
Table 2. Punitive damage award means and standard deviations, by scenario (before and after trimming).

<table>
<thead>
<tr>
<th></th>
<th>SM</th>
<th>JF</th>
<th>BT</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Before Trimming</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean</td>
<td>$14,327,407</td>
<td>6,483,251</td>
<td>7,040,830</td>
</tr>
<tr>
<td>Standard Deviation</td>
<td>128,181,225</td>
<td>20,565,153</td>
<td>18,659,094</td>
</tr>
<tr>
<td><strong>After Trimming</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean</td>
<td>5,604,068</td>
<td>4,228,517</td>
<td>4,601,364</td>
</tr>
<tr>
<td>Standard Deviation</td>
<td>6,697,804</td>
<td>5,423,695</td>
<td>6,112,333</td>
</tr>
</tbody>
</table>
Table 3. Punitive damage award mean, standard error, and cell sizes after trimming.

<table>
<thead>
<tr>
<th>Profit Information</th>
<th>Level of Pain &amp; Suffering</th>
<th>Recipient of Punitive Damages</th>
<th>N</th>
<th>$M$</th>
<th>Standard Error</th>
</tr>
</thead>
<tbody>
<tr>
<td>Present</td>
<td>Low</td>
<td>Plaintiff</td>
<td>27</td>
<td>$5,140,912</td>
<td>$968,799</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Government</td>
<td>25</td>
<td>4,471,907</td>
<td>1,006,181</td>
</tr>
<tr>
<td></td>
<td>High</td>
<td>Plaintiff</td>
<td>31</td>
<td>4,039,892</td>
<td>903,578</td>
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<tr>
<td></td>
<td></td>
<td>Government</td>
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<td>4,526,698</td>
<td>1,097,834</td>
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<td>Absent</td>
<td>Low</td>
<td>Plaintiff</td>
<td>43</td>
<td>4,206,736</td>
<td>767,206</td>
</tr>
<tr>
<td></td>
<td></td>
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Table 4. ANOVA table

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<td><strong>Error</strong></td>
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* Significant at $p = .05$

** Significant at $p = .01$
Table 5. Punitive damage award means and standard errors for each scenario.

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<th>JF</th>
<th>BT</th>
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<tr>
<td>Mean</td>
<td>$5,651,032</td>
<td>4,193,912</td>
<td>4,614,216</td>
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<tr>
<td>Standard Error</td>
<td>444,951</td>
<td>353,107</td>
<td>407,614</td>
</tr>
</tbody>
</table>
supported. In fact, awards were elevated slightly in the higher pain and suffering condition \((M = 4,805,418)\) when compared to the low pain and suffering condition \((M = 4,673,824)\).

Correspondingly, the notion that there would be no effect of pain and suffering award levels when the plaintiff is not the recipient, was also not supported. Interestingly, post hoc examination of the means revealed the opposite pattern. That is, there was no effect of level of pain and suffering when the plaintiff was the recipient of damages (means given above), \(F(1,135) = .02 p > .05\). When punitive damages were to be awarded to a governmental fund, however, there was a nonsignificant tendency to award more money when pain and suffering awards were high, \(M = 5,747,705\), than low, \(M = 4,051,933\), \(F(1,193) = 3.09 p = .08\).

In accord with Hypothesis 2, the interaction between profit and pain and suffering was statistically significant, \(F(1, 228) = 4.58 p = .03 \eta^2 = .02\). As illustrated by Figure 1 when profit information was given, there was no effect of the level of pain and suffering, \(F(1, 102) = .62 p > .05\). When profit information was absent, however, awards significantly increased along with the level of pain and suffering, \(F(1,130) = 4.53 p = .04\). This effect is especially evident when the level of pain and suffering is high. Awards were significantly lower when profit information is given, \(F(1,112) = 4.45 p = .04\). Means and standard errors are given in Table 6.

Further, there was a statistically reliable interaction of profit and scenario, \(F(2, 227) = 9.22 p < .01 \eta^2 = .08\). When profit information was given, participants awarded less money, except in the SM scenario, in which they awarded more.
Figure 1. Profit information and pain and suffering interaction.
Table 6. Punitive damage award means and standard errors for profit information and level of pain and suffering interaction.

<table>
<thead>
<tr>
<th></th>
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<tr>
<td></td>
<td>Mean</td>
<td>Std. Error</td>
</tr>
<tr>
<td>Low Pain &amp; Suffering</td>
<td>$3,919,348</td>
<td>632,654</td>
</tr>
<tr>
<td>High Pain &amp; Suffering</td>
<td>6,269,827</td>
<td>640,218</td>
</tr>
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</table>
Award Variability

In order to test the hypothesized effect of company profit information on award variability, three variance variables were created, one for each scenario. The absolute value of the difference between each score and its respective condition mean was used as a measure of variability (Saks, et al 1997). These values were analyzed as above with a 2 X 2 X 2 X 4 Repeated ANOVA with scenario as the only within subjects variable. F-values for all tests conducted and corresponding statistics are given in Table 7.

There was a significant main effect of profit $F(1, 228) = 9.42 \ p < .01 \ \eta^2 = .04$. In support of Hypothesis 3, there was significantly less award variability when company profit information was given than when it was not ($M = 3,104,616; 4,444,180$). There was also an interaction between profit information and pain and suffering award level on the variance variables $F(1, 228) = 6.24 \ p = .01 \ \eta^2 = .027$. As shown in Figure 2 (see Table 8 for means and standard errors), when pain and suffering is low, the presence or absence of profit information makes no significant difference in award variability, $F(1,116) = .16 \ p > .05$. When pain and suffering is high, however, awards are significantly more variable when profit information was not present, $F(1,112) = 16.00 \ p > .05$. Interestingly, when profit information was present and the level of pain and suffering was high, awards were significantly less variable than when the level of pain and suffering was low and profits were present, $F(1,100) = 6.37 \ p = .01$.

Although not significant in the original untransformed scores, the recipient and pain and suffering level interaction was significant on the variance scores, $F(1,228) = 5.09 \ p = .03 \ \eta^2 = .022$. As illustrated by Figure 3, when the level of pain and suffering was low, variability significantly decreased when damages were allocated to the
Table 7. ANOVA table for variance transformed data.

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<th>df</th>
<th>F</th>
<th>p</th>
<th>$\eta^2$</th>
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</thead>
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<td>.040</td>
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<td>.02</td>
<td>.88</td>
<td>&lt;.001</td>
</tr>
<tr>
<td>Recipient</td>
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<td>.61</td>
<td>.44</td>
<td>.003</td>
</tr>
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<td>Profit X P&amp;S</td>
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<td>6.24</td>
<td>.01**</td>
<td>.027</td>
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<td>Profit X Recipient</td>
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<td>.29</td>
<td>.59</td>
<td>.001</td>
</tr>
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<td>P&amp;S X Recipient</td>
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<td>5.09</td>
<td>.03*</td>
<td>.022</td>
</tr>
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Error 228

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</thead>
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<td>.023</td>
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<tr>
<td>Profit X P&amp;S X Recipient X Scenario</td>
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<td>.89</td>
<td>.41</td>
<td>.004</td>
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</table>

Error 456

* Significant at $p = .05$

** Significant at $p = .01$
Figure 2. Variance variable: profit and pain and suffering interaction.
Table 8. Mean variation and standard errors of profit information and pain and suffering interaction on the variance variable.

<table>
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<tr>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mean</td>
<td>Std. Error</td>
</tr>
<tr>
<td>Low Pain &amp; Suffering</td>
<td>$3,681,748</td>
<td>453,796</td>
</tr>
<tr>
<td>High Pain &amp; Suffering</td>
<td>2,527,483</td>
<td>462,085</td>
</tr>
</tbody>
</table>
Figure 3. Variance variable: recipient of punitive damages and level of pain and suffering interaction.
government, $F(1,116) = 4.50 \ p = .04$. Variance did not significantly differ as a function of recipient when pain and suffering was high, $F(1,112) = 1.12 \ p > .05$. There was also no effect of the level of pain and suffering when the plaintiff was the recipient of punitive damages, $F(1,135) = 3.23 \ p > .05$. See Table 9 for means and standard errors.

As expected, the variability of each scenario varied differentially as well as interacted with several variables. The scenario and recipient of punitive damages interaction was significant, $F(2, 227) = 4.09 \ p = .02 \ \eta^2 = .035$. Scenario also interacted with level of pain and suffering, $F(2, 227) = 5.06 \ p < .01 \ \eta^2 = .043$. Scenario and profit information also exhibited a significant interaction, $F(2, 227) = 10.35 \ p < .01 \ \eta^2 = .084$. As indicated earlier, the effects involving scenario could be driven by factors such as gender and occupation of plaintiff, type of injury, amount of economic damages awarded, and size of Defendant Company. As such, these results cannot be meaningfully interpreted and will not be discussed further.

Demographic Questionnaire

The 16 items used to assess attitudes toward civil litigation were analyzed using a Factor Analysis with Varimax Rotation. The resulting solution had six factors with Eigen values greater than one. However, only one factor was retained, as the other five factors contained three or fewer items and could not be combined in a meaningful way. The single retained factor had an Eigen value of 3.13 and accounted for 19.6% of the attitude questionnaire’s variance. After recoding negative items, these items were aggregated to form a single attitude toward civil litigation score (see Table 10 for individual items and loadings) with a reliability of 0.69. This is an acceptable alpha coefficient value (Nunnally, 1978). Responses to items on this scale were constructed such that higher
Table 9. Mean variation and standard errors of recipient of punitive damages and pain and suffering interaction.

<table>
<thead>
<tr>
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<th>Government</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mean</td>
<td>Std. Error</td>
</tr>
<tr>
<td>Low Pain &amp; Suffering</td>
<td>$4,469,430</td>
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</tr>
<tr>
<td>High Pain &amp; Suffering</td>
<td>3,420,932</td>
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Table 10. Items retained in the “Attitudes Toward Civil Litigation” factor.

<table>
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<th>Factor Loading</th>
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<th>S.D.</th>
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<td>2</td>
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<tr>
<td>3</td>
<td>-.52</td>
<td>1.69</td>
<td>.96</td>
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<tr>
<td>4</td>
<td>.47</td>
<td>3.69</td>
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<tr>
<td>5</td>
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<td>7</td>
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</table>

*Mean of reverse coded scores, where applicable.
scores indicate more negative attitudes toward civil litigation. For instance, Item 3 is the
most positively rated item. Participants strongly agreed that companies should be
assessed some sort of monetary fee when they are especially reprehensible. This item
loaded negatively and as such was recoded to a corresponding low value. As this is in
agreement with the way our legal system currently functions, this is considered a positive
attitude. See Appendix E for means and standard deviations of all attitude questionnaire
items.

Two hundred thirty four, of 236, participants completed the attitude survey and
had corresponding aggregated attitude scores. Participant attitudes did not vary by
condition, $F(7, 226) = .72 \ p > .05$. Generally, participants had slightly positive attitudes
toward civil litigation ($M = 3.06; S.D. = .75$). In fact, most participants ($n = 173$) had
scores between 2.29 and 3.71. All individual item means were neutral to slightly positive
(Table 10).

The mean award allocation for the three scenarios was computed to render an
average punitive award amount for each participant. All demographic items (i.e. age,
gender, race, family income, political affiliation), scores on the GBJWS, as well as
participants’ attitudes toward civil litigation score were correlated with this average.
These correlations, as well as sample sizes, are given in Table 11.

Attitudes toward civil litigation was slightly, yet reliably, correlated with average
punitive damage awards, $r = -.146 \ p = .026$. Higher scores on the seven items resulted in
lower average award values. That is, more negative attitudes toward civil litigation
resulted in smaller awards. Older participants were also more likely to give smaller
awards, $r = -.13 \ p = .047$. The GBJWS (coefficient alpha = .78) marginally correlated
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</tr>
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<td>-.27</td>
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<td>160</td>
<td>234</td>
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</tbody>
</table>

* Significant at $p = .05$
** Significant at $p = .01$
with participant awards, $r = -.15 \ p = .06$. Interestingly, political affiliation ($M = 4.15$; 
$S.D. = 1.46$) was neither correlated with attitudes toward civil litigation, $r = -.05 \ p = .56$, 
or average punitive awards, $r = -.03 \ p = .67$. This may simply be a characteristic of this 
sample; on the other hand, it may be an indication that political affiliation is not as 
strongly related to civil litigation views as is commonly assumed.

Table 11 also illustrates some interesting sample characteristics. Women, 
minorities, and older participants reported lower income, $r = -.21; -.19; -.26$, respectively, 
with all $p$’s $< .01$. Most female participants were non-White, $r = -.27 \ p < .01$. Not 
surprisingly, more liberal participants were less likely to believe the world is a just place, 
$r = -.26 \ p < .01$.

Participants were also asked to indicate the strategy they used in awarding money 
in the scenarios. The most commonly selected answer was “I was equally concerned with 
punishing the defendant and setting an example for other companies, without considering 
how much money the plaintiff was getting.” This answer was selected by 52 of the 156 
participants that completed that portion of the questionnaire.

As a manipulation check, participants were asked who received the money in each 
scenario. Nearly all participants (124 of 156 that completed this portion) indicated that 
monies went to the plaintiff, irrespective of condition. In retrospect and response to 
participant comments, this was a poorly worded question. The plaintiff received 
compensation in each scenario. A more properly worded manipulation check would have 
asked who received punitive damages; “money” was too vague a descriptor.
Discussion

This study examined the influence of pain and suffering award amounts, the recipient of the punitive award, and the presence of profit information on the compartmentalization of punitive damage decisions. Both punitive award amounts and the variability of those awards were examined in light of these factors.

Recipient of Damages and Level of Pain and Suffering

In the current study there was no main effect of the recipient of punitive damages on award amounts. This finding is somewhat contrary to those of Anderson and MacCoun (1999) in which jurors awarded a greater amount of money to the plaintiff than government. Perhaps the isolation of the compensatory and punitive decisions helped focus participants' awards on punishment and not further compensation. Such bifurcated decisions are not without consequence, as jurors are more apt to inflate punitive damages when the decision is made independent of compensatory damages (Greene, Woody, & Winter, 2000).

In accordance with the notion of windfall avoidance as well as the concept of jurors having a total award in mind, Hypothesis 1 predicted an interaction between the recipient of the punitive award and the level of pain and suffering damages. Namely, participants were expected to award more to the plaintiff when pain and suffering awards were low and show no effect of pain and suffering levels when punitive awards were designated for the governmental fund. Contrary to Hypothesis 1, participants did not award more to the plaintiff when pain and suffering was low. In fact, the opposite pattern was observed; when awards went to the governmental research fund, participants were,
nonsignificantly, inclined to award more when pain and suffering was high and less when pain and suffering low.

This may indicate an increased sensitivity to anchors when punitive damage awards are allocated to someone other than the plaintiff. That is, potential jurors may have some notion of a fair plaintiff’s punitive award, however, when that award is allocated to an entity other than the plaintiff, participants may be more inclined to make use of anchors when making their judgments. The observed trend of assimilation to anchors is further supported by the significant reduction of variability when pain and suffering was low and the governmental fund was the recipient. Participants appear to use pain and suffering as a guide to determine the amount of punitive damages that the government should receive. Even so, this relationship is not entirely clear, as the interaction of award amounts was not statistically significant. Further research, perhaps with more salient manipulations, is needed to explore the effect of who receives punitive damages on punitive award amounts.

The assumption that juror’s may make punitive award decisions based on some conceptualization of a total plaintiff’s award does not seem entirely valid. When examining the amount of punitive damages awarded, it appears that potential jurors are indeed not influenced by the amount of monies already to be paid to the plaintiff. Participants may be considering only the reprehensibility of the defendant, as indicated by the most important motivation expressed by participants in this study. That is, most participants indicated that they intended to punish and deter, as the law intends, without regard to the amount already received by the plaintiff.

Company Profit Information
In support of Hypothesis 2, there was no effect of the level of pain and suffering when Defendant wealth information was provided. Instead of exhibiting anchoring effects, participants’ awards did not reliably differ across levels of pain and suffering. Profit information appears to attenuate adherence to anchors in the determination of punitive awards.

Punitive damage award variability was also reduced by company profit information, as conjectured in Hypothesis 3. Furthermore, profit information interacted with level of pain and suffering in the variance transformed scores. Specifically, in the case of large pain and suffering awards, the addition of company profit information significantly reduced award variability.

If leakage is conceptualized in terms of jurors simply being influenced by the amount of compensatory damages, then the addition of company profit information led to the compartmentalization of punitive reasoning. When this information was absent, leakage occurred. This relationship was not as hypothesized (according to Hypothesis 1), however, as participants instead exhibited leakage through anchoring effects instead of windfall avoidance. That is, although potential jurors seem not to have a total award in mind, they rely on the amount of compensatory damages to scale their punitive award in the absence of profit information.

Participant Demographics

Juror demographic variables have generally not been reliable predictors of award decisions in past research (e.g. Chapman & Bornstein 1996). However, there has been a connection found between juror’s beliefs and their damage award decisions. Potential jurors that believe a large percentage of plaintiffs receive awards greater than one million
dollars are more likely to give large awards in a mock trial (Greene, Goodman, & Loftus, 1991). Juror’s belief in a litigation crisis has also been identified as influencing damage awards (Greene, Goodman, & Loftus, 1991; Hans & Lofquist, 1994).

In the current study, participants’ attitudes toward civil litigation were correlated with punitive damage award levels. Participants’ belief in a just world, however, was only marginally correlated with awards. The magnitude of these correlations, however, was not very encouraging. Although the relationship between attitudes toward civil litigation was statistically significant, its diminutive size, even by psychological standards, begs for further research. This relation may be tied to this particular sample and not generalize to other potential jurors. Further testing within varied civil litigation contexts is necessary. For example, in cases with less clear-cut punitive issues, attitudes may prove to be more related to award amounts.

Limitations

Scenario elicited several effects in both the transformed and raw scores. As the elements of each scenario were not experimentally controlled and were included to increase generalizability of the remaining factors, main effects, as well as significant interactions, were to be expected. Interpretations, of these effects, however, are limited by the innumerable ways in which the scenarios differed. Future studies could examine which types of cases are more susceptible to leakage and compartmentalization of punitive awards.

It is recognized, of course, that the use of a college student sample may limit the applicability of these findings. Community college students were included in effort to increase generalizability; however, the use of such a sample may have precluded some
observable relationships. As indicated above, the attitude scale used in this study may only be related to award amounts as a result of this sample. Also, political affiliation is thought to be a reliable predictor of juror attitudes, yet, it was not found to be such in this study. Although a wide spread of political views were reported, college students may still be more liberal than the general population.

Further, the current methodology focused on individual decision-making and may not directly generalize to a group decision-making context. While the decision patterns of individual jurors have been shown to be related to those made in groups, other factors may come into play and effect the final decisions of juries.

Implications

Profit information provided participants with valid and salient frame of reference with which to determine award amounts suffering. Providing jurors with similar valid decision-making aids is preferable to caps, or similar methods of jury reform, in that they do not establish an arbitrary anchor. If a jury does gravitate toward company profit information, it is at least a meaningful anchor. That is, defendant worth is not an irrational value that influences juror awards. It provides relevant information regarding the appropriate punishment for a given defendant. For example, a $200,000 punitive award in Texas (that could arguably be influenced by the state’s punitive damage cap) may indeed punish and deter small business owners, however, would be a small price to pay for a multi-national corporation. The inclusion of company profits provides a basis to make such decisions.

Additionally, such a reduction in variability may address the observed “horizontal inequity” in jury award decisions. Although the unpredictability of punitive awards is
thought to aid in its deterrent power (Koenig & Rustad, 1993), current legislation seems to imply a desire for comparable awards for comparable offenses. The imposition of caps on punitive damages seems to be an extreme way to ensure award normality. As suggested by the current findings, the inclusion of profit information greatly assists in reducing award variability.

When pain and suffering was low, however, allocating awards to the government resulted in the lowest variability. As the pattern of variance changes, however, this may suggest a variable policy with regard to who is the designated recipient of punitive damages. For instance, in lawsuits where the defendant openly demonstrates wanton disregard for safety, as was the case in all scenarios in this study, and the pain and suffering damages are low, damages should be apportioned to the government, or some other non-party to the lawsuit. Given the actual harm to the plaintiff is minimal, as reflected by low compensatory damages, dedicating the punitive award to the government will not be perceived as unfair to the plaintiff, will result in higher agreement amongst jurors, and still achieve its goal of punishing the defendant.

The current research also has important theoretical implications. Explicitly, it has shed some light on the notion of leakage. While leakage was not illustrated through the means of a total award, as suggested by some researchers; it was instead exhibited through anchoring effects. In the absence of a valid frame of reference, jurors adhere to anchors. As such, compensatory damages may unduly influence punitive award magnitude. However, given defendant wealth information to contextualize an appropriate punishment, jurors will appropriately compartmentalize compensatory and punitive damage award decisions.
References


Kihlstrom (Eds.), *Personality, cognition, and social interaction* (pp. 69-121).


Appendix A

Instructions to Participants

This experiment is concerned with certain aspects of jury decision making. We want you to imagine that you are a member of a jury in a civil litigation matter. Actually, we are going to briefly describe three separate and different incidents or circumstances, each involving someone suffering an injury, illness or death. In each instance, a lawsuit was filed, and a trial has taken place. You are to imagine for each of the three lawsuits that the trial has reached the stage where all the evidence has been presented and the jury is deliberating to make decisions.

There are four decisions the jury is assigned to make for each case. The first is liability; that is, who is responsible for the injury, illness or death. The second decision is economic damages; that is, how much money to award for economic losses such as lost wages and medical expenses. The third decision is non-economic damages; that is, how much money to award for the plaintiff’s pain and suffering. Economic and non-economic damages comprise the compensatory portion of damages, which, according to the law are intended to restore the plaintiff to their level of functioning prior to the incident.

You are a member of the jury (actually, three different juries). The first three decisions have been made in an earlier phase of the deliberations (liability, economic damages and pain and suffering damages) and the remaining decision you are to make concerns how much money to award for punitive damages. There are no constraints on the magnitude of the award; you can award as little or as much as you think appropriate.

What follows is a description of each of the lawsuits which includes:
1. The circumstances and/or events leading to the injury, illness or death.
2. Details about the injury or illness.
3. Information about the parties involved (plaintiffs and defendants)
4. Information about the economic damages (medical costs, lost wages, etc.)
5. A description of the jury’s decision on liability; who was responsible.
6. A description of the jury’s decision on economic damages; how much was awarded.
7. A description of the jury’s decision on pain and suffering; how much was awarded.

At the end of each case description, you are to record your decision regarding the punitive damages. You should keep in mind that in our legal system the purpose of punitive damages is to punish the defendant as well as to deter or prevent similar events from occurring in the future. The law states: “Punitive damages are awarded in situations which, when viewed objectively from the standpoint of the defendant at the time of its occurrence, involves an extreme degree of risk, and of which the defendant has actual, subjective awareness of
the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others."
Appendix B

Case Scenarios

Scenario BT

**Recipient:** PLAINTEFF
**Pain and Suffering:** HIGH
**Profit Information:** NONE

Brian Tanner was seriously injured when his power drill malfunctioned. The drill was manufactured by Milwaukee Company. Brian was standing on a properly installed scaffold drilling into the ceiling of a sports facility that his employer, a construction company, was building. The drill bit became lodged and the drill itself began to spin backward powerfully. Brian was holding the drill, and at that point he lost his balance and fell 17 feet to the auditorium floor, fracturing his lower vertebrae. As a result, he has permanent lower body paralysis and is confined to a wheelchair.

Brian is 32 years old and had worked in construction since he was 18. He had been with the present company for 10 years and was promoted to foreman 2 months prior to the accident. He was on the scaffolding that day because one of the regular workers who would have been doing this task had called in sick. Brian was always the kind of guy who would pitch in and help where needed. Due to the accident he can no longer work in the construction industry. He is married with two children, a girl age 9 and a boy age 7.

As a result of the accident and injuries Brian filed a lawsuit against Milwaukee Company contending that design and marketing defects in the drill caused it to fail, which in turn caused the accident and injuries. Evidence presented at the trial included the following:

1. The drill was manufactured in December of 1999 by Milwaukee Co. Milwaukee Co. recommended that only experienced contractors should use this product. In the first 12 months after this model of the drill was introduced, there were over 180 accidents caused by the drill bit becoming lodged, all involving experienced contractors. After-market tests revealed the drill bit is 30 times more likely to become lodged than other power drills.

2. An engineering expert testified that a series of tests revealed that the design of the drill was faulty. When used to drill into certain types of materials, the drill bit would lockup and the drill itself would spin with great force. Further, this problem could occur when drilling into materials for which the drill was supposedly appropriate.
3. Documents made available at trial indicated that this is the most powerful drill on the market and there had been a very profitable market for it. Milwaukee Co.'s executives decided to continue to sell the product despite its accident history. Settling lawsuits involving injuries due to drill bit malfunction was deemed to be more cost effective than discontinuing the drill or recalling it for modification.

4. An internal communication was also presented at the trial detailing the company's decision not to include warning material pertaining to the propensity of the drill to get lodged if used in certain types of materials. The lack of warnings is considered a marketing defect. The added cost of including a warning would be negligible, but there was concern that it would unnecessarily alarm the consumer. A Milwaukee executive stated, "The presence of a warning could hinder the phenomenal sales of our most profitable product to date."

5. An expert witness who specialized in safety communications testified that a warning would have prevented Brian's serious injuries. A warning on the drill itself would have alerted Brian to the possibility of the bit becoming lodged in that particular application, and he would not have been so taken by surprise.

4. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

- Past and future medical costs and care $1,400,000
- Past and future lost wages 1,300,000
- Other economic considerations, such as hiring people to do things that Brian did 250,000

Total $2,950,000

In determining the liability (fault), the jury decided that Milwaukee Company was 100% responsible. The jury awarded Brian $2,950,000 for economic damages.

The plaintiffs (Brian and his family) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium with his wife (such as sexual interaction), limitations on the types of interactions he can have with his children and future grandchildren, inability to engage in many activities he previously enjoyed, and a loss of self-esteem. The jury awarded Brian and his family $5,000,000 for pain and suffering.

This means Brian and his family will receive a total compensatory award of $7,950,000.

A third and last award decision the jury has to make concerns punitive damages. Brian and his family contend that Milwaukee Company should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety.
The plaintiff's argument is that Milwaukee Company knew about the safety problem, had available a design solution that could have been implemented by recalling and fixing the drill or by offering a properly designed replacement. Also, it could have provided a good warning with the drill, which would have enabled customers to avoid unsafe applications. They further contend that the manufacturer rejected these solutions because of greater short-term profits and a lack of concern for user safety.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario SM

Recipient: PLAINTIFF
Pain and Suffering: HIGH
Profit Information: NONE

Last summer Sally Morris, suffered burns over 65% of her body due to a fire at the Mountain Lake Resort Hotel. The fire began in the electrical room; specifically, a breaker in the Theft Prevention alarm system box overloaded and caught fire. The fire quickly spread throughout the lobby. The smoke and heat detectors, which were designed, sold, installed and maintained by Safety Alarm Corporation (SAC), did not respond. Consequentially, the sound alarm and sprinkler system (also designed, sold, installed and maintained by SAC) were not engaged. Sally was on the 5th floor, oblivious to the fire, as the alarm was not activated. She got on the elevator, which was still functioning, to go to the lobby to checkout. When the doors opened, she was engulfed in flames.

Sally, 25 years old, was on a couple’s retreat with her husband and her brother and sister-in-law. She had gone down to the lobby to check out for both rooms while her companions stayed behind to finish packing. As a result of the accident Sally was in a burn center for two months, and she has undergone numerous surgeries and 17 skin grafts.

SAC and the Venetian Hotel Group (owner of the Mountain Lake Resort Hotel in question) had recently begun negotiations to renew their contract. During negotiations, SAC suspended maintenance and monitoring service to all member hotels in that chain. SAC, however, did not notify the Hotel Group or the member hotels that these services were not being performed.

As a result of the accident and injuries Sally filed a lawsuit against SAC contending that their policy to suspend the critical hotel fire safety service was irresponsible and resulted in the fire spreading which in turn caused her injuries
Evidence presented at the trial included the following:

1. Medical testimony indicated that despite skin grafting, Sally would continue to have facial scars. Also, she would experience some moderate levels of pain, particularly associated with certain body movements. Consequently, her physical activities would be permanently curtailed. She was also strongly advised against having children.

2. Sally had been a well-paid model for a major department store chain for the past 4 years. Due to the scarring and limitations on physical movement, she will not be able to continue in that profession.
3. Sally’s former employer testified that she was regarded as one of their best models and that her prospects to achieve success and high income as a model were excellent.

4. Sally had two years of college before becoming a model. She was slightly above average as a student. A vocational expert testified that if she completed a college degree, she would definitely be employable, but that her expected income potential would not approach what would have been expected from a successful modeling career.

5. SAC claimed that its suspension of services to the hotel group was unintended and the result of misunderstandings. During the trial, however, several present and past employees of SAC testified that it was an unwritten policy of SAC to actively terminate service calls, including system maintenance, to any corporate client when contract negotiations were taking place, though the contracts had actually not expired. Such measures cut costs, since equipment upgrades were required at these maintenance calls, as was the case at the Venetian resort.

6. Testimony at the trial revealed that while SAC and the Venetian Group were negotiating a renewal of their contract at the time of the fire, the current contract had not yet expired. In other words, at the time of the fire SAC was violating the existing contract by not providing the fire alarm system service.

7. An expert on hotel fire alarm systems testified that an analysis and reconstruction of the fire incident revealed that the failure of the system was the result of a damaged detector in the area where the fire originated. Further, the normal maintenance schedule would have resulted in this detector being inspected two days before the fire. Had the detector been replaced and functioned, the fire would have been detected much earlier, the alarm system would have sounded, and the sprinkler system in the fire area would have been activated and contained the spread of the fire. Further, Sally’s injuries would have been prevented.

8. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:
   
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Past and future medical costs and care</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>Past and future lost wages</td>
<td>800,000</td>
</tr>
<tr>
<td>Other economic considerations, such as hiring people to do things that Sally did</td>
<td>300,000</td>
</tr>
<tr>
<td>Total</td>
<td>$2,200,000</td>
</tr>
</tbody>
</table>

In determining the liability (fault), the jury decided that SAC was 100% responsible. The jury awarded Sally $2,200,000 for economic damages.
The plaintiffs (Sally and her husband) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium (such as limited sexual interaction), inability to engage in many activities she previously enjoyed, and a loss of self-esteem. The jury awarded Sally and her husband $5,437,500 for pain and suffering.

This means Sally and her family will receive a total compensatory award of $7,637,500.

A third and last award decision the jury has to make concerns punitive damages. Sally and her husband contend that SAC should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that SAC not only violated a contract, but knew that their failure to carry out inspections and maintenance of the hotel fire detection and alarm system could cause not only substantial property damage as occurred in the hotel, but catastrophic injuries or deaths as well.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario JF

Recipient: PLAINLIFF
Pain and Suffering: HIGH
Profit Information: NONE

Jacob Foley was badly injured while driving his mini van on a four-lane highway, two lanes in each direction. He and his brother Peter had been visiting their mother who lived alone since the death of their father 18 months earlier. It was approximately 9:30 p.m., and Jacob was going to drop Peter off at his house and continue to his own home. A semi truck crossed the median into oncoming traffic and crashed into the left front of Jacob’s vehicle.

Jacob suffered serious head and arm injuries. Peter was sitting in the right front passenger seat and was not seriously injured. He was able to give an account of the events of the accident. He reported that Jacob was driving under the posted 55-mpg speed limit and had not been drinking. Jacob was in the left lane and was unable to avoid the truck because there was another car in the right lane.

The driver of the semi, Robert Branch, had been a truck driver for 5 years. He fell asleep at the wheel for only a moment but did not recover in time to regain control of the vehicle.

As a result of the accident and injuries, Jacob filed a lawsuit against MG Shipping, the owner of the semi truck and Robert Branch’s employer. Evidence presented at the trial included the following:

1. Jacob was 29 years old at the time of the accident. He was married and had one child, a four-year old boy. He had a B.S. degree in mechanical engineering and an MBA, both from the University of Michigan. He was employed in the marketing division of Ford Motor Company.

2. Jacob’s head injuries resulted in some brain damage that in turn resulted in deficits in reasoning ability and speech. He also suffered significant hearing loss and facial scaring. His left hand and arm were crushed, resulting in the amputation of the arm six inches above the elbow. He spent over 5 weeks in the hospital following the accident, and he will require therapy indefinitely.

3. A vocational analysis expert testified that while Jacob might eventually be employable at a low to moderate income level of work, he is not expected to be able to function in the kind of job he had at Ford.

4. An accident reconstruction expert confirmed that Jacob was driving approximately 52 miles per hour. Both Jacob and Peter were properly wearing their seat belts. Results of the blood analysis indicated Jacob had not been drinking or using any drugs or medications.
5. MG Shipping, the owner of the semi, operated a fleet of 11 trucks that dealt mostly in middle range (less than 200 miles) transport of heavy equipment. For profit reasons, they had adopted a policy six months prior to the accident that encouraged driving for long periods of time and skipping breaks. Their policies included incentives based on number of deliveries. Also, if drivers failed to meet delivery goals, they could be reprimanded, given poor performance appraisals, and eventually fired for unsatisfactory performance.

6. The truck driver, Robert Branch, had been awake for 22 consecutive hours prior to the accident. Twenty of these hours were spent on the road with breaks only to refuel and drop off his loads.

7. On four separate occasions during the year prior to this accident, drivers for MG Shipping had been cited by various highway authorities for violating regulations related to limits on consecutive driving hours. MG Shipping was aware of these citations and reimbursed the drivers for the fines; however, they did not change the incentive policies. Also, two drivers during the one-year period had been involved in minor accidents where the probable cause had been falling asleep at the wheel. Again, MG Shipping was aware of these incidents.

8. Four days before this accident Robert Branch, the truck driver, had been told by his supervisor at MG Shipping that his delivery performance had been unsatisfactory. Specifically, he was told that if he did not deliver more loads he would be terminated. This information was written in his performance appraisal, which was included in the records presented at trial.

9. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

<table>
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<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Past and future medical costs and care</td>
<td>$2,100,000</td>
</tr>
<tr>
<td>Past and future net lost wages</td>
<td>2,600,000</td>
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<tr>
<td>Other economic considerations, such as hiring people to do things that Jacob does</td>
<td>1,550,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$6,250,000</strong></td>
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In determining the liability (fault), the jury decided that MG Shipping was 100% responsible. The jury awarded Jacob $6,250,000 for economic damages.

The plaintiffs, Jacob and his family, also sued for pain and suffering damages. This category includes physical pain, the loss of consortium between Jacob and his wife (such as sexual interaction), limitations on the types of interactions he can have with his child and his inability to engage in many activities he previously enjoyed. The jury awarded $5,000,000 for pain and suffering.
This means Jacob and his family will receive a total compensatory award of $11,250,000.

A third and last award decision the jury has to make concerns punitive damages. Jacob and his family contend that MG Shipping should be punished as a result of their “conscious disregard” (a legal term) for safety. The plaintiff’s argument is that MG Shipping knew about the hazards associated with their employees driving excessive numbers of consecutive hours with too little rest. They were also accused of being aware that in many instances drivers were violating highway regulations. It was further pointed out that despite this knowledge, MG Shipping continued their policies, which encouraged dangerous practices such as those that resulted in Jacob Foley’s injuries.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario BT

Recipient: PLAINTIFF
Pain and Suffering: LOW
Profit Information: NONE

Brian Tanner was seriously injured when his power drill malfunctioned. The drill was manufactured by Milwaukee Company. Brian was standing on a properly installed scaffold drilling into the ceiling of a sports facility that his employer, a construction company, was building. The drill bit became lodged and the drill itself began to spin backward powerfully. Brian was holding the drill, and at that point he lost his balance and fell 17 feet to the auditorium floor, fracturing his lower vertebrae. As a result, he has permanent lower body paralysis and is confined to a wheelchair.

Brian is 32 years old and had worked in construction since he was 18. He had been with the present company for 10 years and was promoted to foreman 2 months prior to the accident. He was on the scaffolding that day because one of the regular workers who would have been doing this task had called in sick. Brian was always the kind of guy who would pitch in and help where needed. Due to the accident he can no longer work in the construction industry. He is married with two children, a girl age 9 and a boy age 7.

As a result of the accident and injuries Brian filed a lawsuit against Milwaukee Company contending that design and marketing defects in the drill caused it to fail, which in turn caused the accident and injuries. Evidence presented at the trial included the following:

1. The drill was manufactured in December of 1999 by Milwaukee Co. Milwaukee Co. recommended that only experienced contractors should use this product. In the first 12 months after this model of the drill was introduced, there were over 180 accidents caused by the drill bit becoming lodged, all involving experienced contractors. After-market tests revealed the drill bit is 30 times more likely to become lodged than other power drills.

2. An engineering expert testified that a series of tests revealed that the design of the drill was faulty. When used to drill into certain types of materials, the drill bit would lockup and the drill itself would spin with great force. Further, this problem could occur when drilling into materials for which the drill was supposedly appropriate.

3. Documents made available at trial indicated that this is the most powerful drill on the market and there had been a very profitable market for it. Milwaukee Co.'s executives decided to continue to sell the product despite its accident history. Settling lawsuits involving injuries due to drill bit malfunction was
deemed to be more cost effective than discontinuing the drill or recalling it for modification.

4. An internal communication was also presented at the trial detailing the company’s decision not to include warning material pertaining to the propensity of the drill to get lodged if used in certain types of materials. The lack of warnings is considered a marketing defect. The added cost of including a warning would be negligible, but there was concern that it would unnecessarily alarm the consumer. A Milwaukee executive stated, "The presence of a warning could hinder the phenomenal sales of our most profitable product to date."

5. An expert witness who specialized in safety communications testified that a warning would have prevented Brian’s serious injuries. A warning on the drill itself would have alerted Brian to the possibility of the bit becoming lodged in that particular application, and he would not have been so taken by surprise.

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</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,950,000</strong></td>
</tr>
</tbody>
</table>

In determining the liability (fault), the jury decided that Milwaukee Company was 100% responsible. The jury awarded Brian $2,950,000 for economic damages.

The plaintiffs (Brian and his family) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium with his wife (such as sexual interaction), limitations on the types of interactions he can have with his children and future grandchildren, inability to engage in many activities he previously enjoyed, and a loss of self-esteem. The jury awarded Brian and his family $900,000 for pain and suffering.

This means Brian and his family will receive a total compensatory award of $3,850,000.

A third and last award decision the jury has to make concerns punitive damages. Brian and his family contend that Milwaukee Company should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that Milwaukee Company knew about the safety problem, had available a design solution that could have been implemented by recalling and fixing the drill or by offering a properly designed replacement. Also, it could have provided a good warning with the drill, which would have enabled customers to avoid unsafe applications. They further contend that the
manufacturer rejected these solutions because of greater short-term profits and a lack of concern for user safety.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario SM

Recipient: PLAINIFF
Pain and Suffering: LOW
Profit Information: NONE

Last summer Sally Morris, suffered burns over 65% of her body due to a fire at the Mountain Lake Resort Hotel. The fire began in the electrical room; specifically, a breaker in the Theft Prevention alarm system box overloaded and caught fire. The fire quickly spread throughout the lobby. The smoke and heat detectors, which were designed, sold, installed and maintained by Safety Alarm Corporation (SAC), did not respond. Consequently, the sound alarm and sprinkler system (also designed, sold, installed and maintained by SAC) were not engaged. Sally was on the 5th floor, oblivious to the fire, as the alarm was not activated. She got on the elevator, which was still functioning, to go to the lobby to checkout. When the doors opened, she was engulfed in flames.

Sally, 25 years old, was on a couple’s retreat with her husband and her brother and sister-in-law. She had gone down to the lobby to check out for both rooms while her companions stayed behind to finish packing. As a result of the accident Sally was in a burn center for two months, and she has undergone numerous surgeries and 17 skin grafts.

SAC and the Venetian Hotel Group (owner of the Mountain Lake Resort Hotel in question) had recently begun negotiations to renew their contract. During negotiations, SAC suspended maintenance and monitoring service to all member hotels in that chain. SAC, however, did not notify the Hotel Group or the member hotels that these services were not being performed.

As a result of the accident and injuries Sally filed a lawsuit against SAC contending that their policy to suspend the critical hotel fire safety service was irresponsible and resulted in the fire spreading which in turn caused her injuries. Evidence presented at the trial included the following:

1. Medical testimony indicated that despite skin grafting, Sally would continue to have facial scars. Also, she would experience some moderate levels of pain, particularly associated with certain body movements. Consequently, her physical activities would be permanently curtailed. She was also strongly advised against having children.

2. Sally had been a well-paid model for a major department store chain for the past 4 years. Due to the scaring and limitations on physical movement, she will not be able to continue in that profession.
3. Sally’s former employer testified that she was regarded as one of their best models and that her prospects to achieve success and high income as a model were excellent.

4. Sally had two years of college before becoming a model. She was slightly above average as a student. A vocational expert testified that if she completed a college degree, she would definitely be employable, but that her expected income potential would not approach what would have been expected from a successful modeling career.

5. SAC claimed that its suspension of services to the hotel group was unintended and the result of misunderstandings. During the trial, however, several present and past employees of SAC testified that it was an unwritten policy of SAC to actively terminate service calls, including system maintenance, to any corporate client when contract negotiations were taking place, though the contracts had actually not expired. Such measures cut costs, since equipment upgrades were required at these maintenance calls, as was the case at the Venetian resort.

6. Testimony at the trial revealed that while SAC and the Venetian Group were negotiating a renewal of their contract at the time of the fire, the current contract had not yet expired. In other words, at the time of the fire SAC was violating the existing contract by not providing the fire alarm system service.

7. An expert on hotel fire alarm systems testified that an analysis and reconstruction of the fire incident revealed that the failure of the system was the result of a damaged detector in the area where the fire originated. Further, the normal maintenance schedule would have resulted in this detector being inspected two days before the fire. Had the detector been replaced and functioned, the fire would have been detected much earlier, the alarm system would have sounded, and the sprinkler system in the fire area would have been activated and contained the spread of the fire. Further, Sally’s injuries would have been prevented.

8. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

- Past and future medical costs and care $1,100,000
- Past and future lost wages 800,000
- Other economic considerations, such as hiring people to do things that Sally did 300,000

Total $2,200,000

In determining the liability (fault), the jury decided that SAC was 100% responsible. The jury awarded Sally $2,200,000 for economic damages.
The plaintiffs (Sally and her husband) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium (such as limited sexual interaction), inability to engage in many activities she previously enjoyed, and a loss of self-esteem. The jury awarded Sally and her husband $237,500 for pain and suffering.

This means Sally and her family will receive a total compensatory award of $2,437,500.

A third and last award decision the jury has to make concerns punitive damages. Sally and her husband contend that SAC should be punished as a result of their “conscious disregard” (a legal term) for their customers’ safety. The plaintiff’s argument is that SAC not only violated a contract, but knew that their failure to carry out inspections and maintenance of the hotel fire detection and alarm system could cause not only substantial property damage as occurred in the hotel, but catastrophic injuries or deaths as well.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario JF

Recipient: PLAINIFF
Pain and Suffering: LOW
Profit Information: NONE

Jacob Foley was badly injured while driving his mini van on a four-lane highway, two lanes in each direction. He and his brother Peter had been visiting their mother who lived alone since the death of their father 18 months earlier. It was approximately 9:30 p.m., and Jacob was going to drop Peter off at his house and continue to his own home. A semi truck crossed the median into oncoming traffic and crashed into the left front of Jacob’s vehicle.

Jacob suffered serious head and arm injuries. Peter was sitting in the right front passenger seat and was not seriously injured. He was able to give an account of the events of the accident. He reported that Jacob was driving under the posted 55-mph speed limit and had not been drinking. Jacob was in the left lane and was unable to avoid the truck because there was another car in the right lane.

The driver of the semi, Robert Branch, had been a truck driver for 5 years. He fell asleep at the wheel for only a moment but did not recover in time to regain control of the vehicle.

As a result of the accident and injuries, Jacob filed a lawsuit against MG Shipping, the owner of the semi truck and Robert Branch’s employer. Evidence presented at the trial included the following:

1. Jacob was 29 years old at the time of the accident. He was married and had one child, a four-year old boy. He had a B.S. degree in mechanical engineering and an MBA, both from the University of Michigan. He was employed in the marketing division of Ford Motor Company.

2. Jacob’s head injuries resulted in some brain damage that in turn resulted in deficits in reasoning ability and speech. He also suffered significant hearing loss and facial scaring. His left hand and arm were crushed, resulting in the amputation of the arm six inches above the elbow. He spent over 5 weeks in the hospital following the accident, and he will require therapy indefinitely.

3. A vocational analysis expert testified that while Jacob might eventually be employable at a low to moderate income level of work, he is not expected to be able to function in the kind of job he had at Ford.

4. An accident reconstruction expert confirmed that Jacob was driving approximately 52 miles per hour. Both Jacob and Peter were properly wearing their seat belts. Results of the blood analysis indicated Jacob had not been drinking or using any drugs or medications.
5. MG Shipping, the owner of the semi, operated a fleet of 11 trucks that dealt mostly in middle range (less than 200 miles) transport of heavy equipment. For profit reasons, they had adopted a policy six months prior to the accident that encouraged driving for long periods of time and skipping breaks. Their policies included incentives based on number of deliveries. Also, if drivers failed to meet delivery goals, they could be reprimanded, given poor performance appraisals, and eventually fired for unsatisfactory performance.

6. The truck driver, Robert Branch, had been awake for 22 consecutive hours prior to the accident. Twenty of these hours were spent on the road with breaks only to refuel and drop off his loads.

7. On four separate occasions during the year prior to this accident, drivers for MG Shipping had been cited by various highway authorities for violating regulations related to limits on consecutive driving hours. MG Shipping was aware of these citations and reimbursed the drivers for the fines; however, they did not change the incentive policies. Also, two drivers during the one-year period had been involved in minor accidents where the probable cause had been falling asleep at the wheel. Again, MG Shipping was aware of these incidents.

8. Four days before this accident Robert Branch, the truck driver, had been told by his supervisor at MG Shipping that his delivery performance had been unsatisfactory. Specifically, he was told that if he did not deliver more loads he would be terminated. This information was written in his performance appraisal, which was included in the records presented at trial.

9. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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In determining the liability (fault), the jury decided that MG Shipping was 100% responsible. The jury awarded Jacob $6,250,000 for economic damages.

The plaintiffs, Jacob and his family, also sued for pain and suffering damages. This category includes physical pain, the loss of consortium between Jacob and his wife (such as sexual interaction), limitations on the types of interactions he can have with his child and his inability to engage in many activities he previously enjoyed. The jury awarded $650,000 for pain and suffering.
This means Jacob and his family will receive a total compensatory award of $6,850,000.

A third and last award decision the jury has to make concerns punitive damages. Jacob and his family contend that MG Shipping should be punished as a result of their “conscious disregard” (a legal term) for safety. The plaintiff’s argument is that MG Shipping knew about the hazards associated with their employees driving excessive numbers of consecutive hours with too little rest. They were also accused of being aware that in many instances drivers were violating highway regulations. It was further pointed out that despite this knowledge, MG Shipping continued their policies, which encouraged dangerous practices such as those that resulted in Jacob Foley’s injuries.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario BT SVH

Recipient: PLAINTIFF
Pain and Suffering: HIGH
Profit Information: GIVEN

Brian Tanner was seriously injured when his power drill malfunctioned. The drill was manufactured by Milwaukee Company. Brian was standing on a properly installed scaffold drilling into the ceiling of a sports facility that his employer, a construction company, was building. The drill bit became lodged and the drill itself began to spin backward powerfully. Brian was holding the drill, and at that point he lost his balance and fell 17 feet to the auditorium floor, fracturing his lower vertebrae. As a result, he has permanent lower body paralysis and is confined to a wheelchair.

Brian is 32 years old and had worked in construction since he was 18. He had been with the present company for 10 years and was promoted to foreman 2 months prior to the accident. He was on the scaffolding that day because one of the regular workers who would have been doing this task had called in sick. Brian was always the kind of guy who would pitch in and help where needed. Due to the accident he can no longer work in the construction industry. He is married with two children, a girl age 9 and a boy age 7.

As a result of the accident and injuries Brian filed a lawsuit against Milwaukee Company contending that design and marketing defects in the drill caused it to fail, which in turn caused the accident and injuries. Evidence presented at the trial included the following:

1. The drill was manufactured in December of 1999 by Milwaukee Co. Milwaukee Co. recommended that only experienced contractors should use this product. In the first 12 months after this model of the drill was introduced, there were over 180 accidents caused by the drill bit becoming lodged, all involving experienced contractors. After-market tests revealed the drill bit is 30 times more likely to become lodged than other power drills.

2. An engineering expert testified that a series of tests revealed that the design of the drill was faulty. When used to drill into certain types of materials, the drill bit would lockup and the drill itself would spin with great force. Further, this problem could occur when drilling into materials for which the drill was supposedly appropriate.

3. Documents made available at trial indicated that this is the most powerful drill on the market and there had been a very profitable market for it. Milwaukee Co.'s executives decided to continue to sell the product despite its accident history. Settling lawsuits involving injuries due to drill bit malfunction was
deemed to be more cost effective than discontinuing the drill or recalling it for modification.

4. An internal communication was also presented at the trial detailing the company's decision not to include warning material pertaining to the propensity of the drill to get lodged if used in certain types of materials. The lack of warnings is considered a marketing defect. The added cost of including a warning would be negligible, but there was concern that it would unnecessarily alarm the consumer. A Milwaukee executive stated, "The presence of a warning could hinder the phenomenal sales of our most profitable product to date."

5. An expert witness who specialized in safety communications testified that a warning would have prevented Brian's serious injuries. A warning on the drill itself would have alerted Brian to the possibility of the bit becoming lodged in that particular application, and he would not have been so taken by surprise.

4. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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In determining the liability (fault), the jury decided that Milwaukee Company was 100% responsible. The jury awarded Brian $2,950,000 for economic damages.

The plaintiffs (Brian and his family) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium with his wife (such as sexual interaction), limitations on the types of interactions he can have with his children and future grandchildren, inability to engage in many activities he previously enjoyed, and a loss of self-esteem. The jury awarded Brian and his family $5,000,000 for pain and suffering.

This means Brian and his family will receive a total compensatory award of $7,950,000.

A third and last award decision the jury has to make concerns punitive damages. Brian and his family contend that Milwaukee Company should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that Milwaukee Company knew about the safety problem, had available a design solution that could have been implemented by recalling and fixing the drill or by offering a properly designed replacement. Also, it could have provided a good warning with the drill, which would have enabled customers to avoid unsafe applications. They further contend that the
manufacturer rejected these solutions because of greater short-term profits and a lack of concern for user safety. Financial records of the company introduced in the trial indicate a profit of a little over $5,000,000 from the sale of this drill in the two years since its introduction.

The jury must now decide whether to award punitive damages, and if, so how much.

In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario SM

Recipient: PLAINIFF
Pain and Suffering: HIGH
Profit Information: GIVEN

Last summer Sally Morris, suffered burns over 65% of her body due to a fire at the Mountain Lake Resort Hotel. The fire began in the electrical room; specifically, a breaker in the Theft Prevention alarm system box overloaded and caught fire. The fire quickly spread throughout the lobby. The smoke and heat detectors, which were designed, sold, installed and maintained by Safety Alarm Corporation (SAC), did not respond. Consequently, the sound alarm and sprinkler system (also designed, sold, installed and maintained by SAC) were not engaged. Sally was on the 5th floor, oblivious to the fire, as the alarm was not activated. She got on the elevator, which was still functioning, to go to the lobby to checkout. When the doors opened, she was engulfed in flames.

Sally, 25 years old, was on a couple’s retreat with her husband and her brother and sister-in-law. She had gone down to the lobby to check out for both rooms while her companions stayed behind to finish packing. As a result of the accident Sally was in a burn center for two months, and she has undergone numerous surgeries and 17 skin grafts.

SAC and the Venetian Hotel Group (owner of the Mountain Lake Resort Hotel in question) had recently begun negotiations to renew their contract. During negotiations, SAC suspended maintenance and monitoring service to all member hotels in that chain. SAC, however, did not notify the Hotel Group or the member hotels that these services were not being performed.

As a result of the accident and injuries Sally filed a lawsuit against SAC contending that their policy to suspend the critical hotel fire safety service was irresponsible and resulted in the fire spreading which in turn caused her injuries. Evidence presented at the trial included the following:

1. Medical testimony indicated that despite skin grafting, Sally would continue to have facial scars. Also, she would experience some moderate levels of pain, particularly associated with certain body movements. Consequently, her physical activities would be permanently curtailed. She was also strongly advised against having children.

2. Sally had been a well-paid model for a major department store chain for the past 4 years. Due to the scaring and limitations on physical movement, she will not be able to continue in that profession.
3. Sally's former employer testified that she was regarded as one of their best models and that her prospects to achieve success and high income as a model were excellent.

4. Sally had two years of college before becoming a model. She was slightly above average as a student. A vocational expert testified that if she completed a college degree, she would definitely be employable, but that her expected income potential would not approach what would have been expected from a successful modeling career.

5. SAC claimed that its suspension of services to the hotel group was unintended and the result of misunderstandings. During the trial, however, several present and past employees of SAC testified that it was an unwritten policy of SAC to actively terminate service calls, including system maintenance, to any corporate client when contract negotiations were taking place, though the contracts had actually not expired. Such measures cut costs, since equipment upgrades were required at these maintenance calls, as was the case at the Venetian resort.

6. Testimony at the trial revealed that while SAC and the Venetian Group were negotiating a renewal of their contract at the time of the fire, the current contract had not yet expired. In other words, at the time of the fire SAC was violating the existing contract by not providing the fire alarm system service.

7. An expert on hotel fire alarm systems testified that an analysis and reconstruction of the fire incident revealed that the failure of the system was the result of a damaged detector in the area where the fire originated. Further, the normal maintenance schedule would have resulted in this detector being inspected two days before the fire. Had the detector been replaced and functioned, the fire would have been detected much earlier, the alarm system would have sounded, and the sprinkler system in the fire area would have been activated and contained the spread of the fire. Further, Sally's injuries would have been prevented.

8. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:
   - Past and future medical costs and care $1,100,000
   - Past and future lost wages 800,000
   - Other economic considerations, such as hiring people to do things that Sally did 300,000
   - Total $2,200,000

In determining the liability (fault), the jury decided that SAC was 100% responsible. The jury awarded Sally $2,200,000 for economic damages.
The plaintiffs (Sally and her husband) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium (such as limited sexual interaction), inability to engage in many activities she previously enjoyed, and a loss of self-esteem. The jury awarded Sally and her husband $5,437,500 for pain and suffering.

This means Sally and her family will receive a total compensatory award of $7,637,500.

A third and last award decision the jury has to make concerns punitive damages. Sally and her husband contend that SAC should be punished as a result of their “conscious disregard” (a legal term) for their customers’ safety. The plaintiff’s argument is that SAC not only violated a contract, but knew that their failure to carry out inspections and maintenance of the hotel fire detection and alarm system could cause not only substantial property damage as occurred in the hotel, but catastrophic injuries or deaths as well. SAC’s financial records indicated that for the previous year the company had over $10,000,000 in profits from the fire alarm portion of their business.

The jury must now decide whether to award punitive damages, and if, so how much.

In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario JF

Recipient: PLAINIFF
Pain and Suffering: HIGH
Profit Information: GIVEN

Jacob Foley was badly injured while driving his mini van on a four-lane highway, two lanes in each direction. He and his brother Peter had been visiting their mother who lived alone since the death of their father 18 months earlier. It was approximately 9:30 p.m., and Jacob was going to drop Peter off at his house and continue to his own home. A semi truck crossed the median into oncoming traffic and crashed into the left front of Jacob’s vehicle.

Jacob suffered serious head and arm injuries. Peter was sitting in the right front passenger seat and was not seriously injured. He was able to give an account of the events of the accident. He reported that Jacob was driving under the posted 55-mph speed limit and had not been drinking. Jacob was in the left lane and was unable to avoid the truck because there was another car in the right lane.

The driver of the semi, Robert Branch, had been a truck driver for 5 years. He fell asleep at the wheel for only a moment but did not recover in time to regain control of the vehicle.

As a result of the accident and injuries, Jacob filed a lawsuit against MG Shipping, the owner of the semi truck and Robert Branch’s employer. Evidence presented at the trial included the following:

1. Jacob was 29 years old at the time of the accident. He was married and had one child, a four-year old boy. He had a B.S. degree in mechanical engineering and an MBA, both from the University of Michigan. He was employed in the marketing division of Ford Motor Company.

2. Jacob’s head injuries resulted in some brain damage that in turn resulted in deficits in reasoning ability and speech. He also suffered significant hearing loss and facial scarring. His left hand and arm were crushed, resulting in the amputation of the arm six inches above the elbow. He spent over 5 weeks in the hospital following the accident, and he will require therapy indefinitely.

3. A vocational analysis expert testified that while Jacob might eventually be employable at a low to moderate income level of work, he is not expected to be able to function in the kind of job he had at Ford.

4. An accident reconstruction expert confirmed that Jacob was driving approximately 52 miles per hour. Both Jacob and Peter were properly wearing their seat belts. Results of the blood analysis indicated Jacob had not been drinking or using any drugs or medications.
5. MG Shipping, the owner of the semi, operated a fleet of 11 trucks that dealt mostly in middle range (less than 200 miles) transport of heavy equipment. For profit reasons, they had adopted a policy six months prior to the accident that encouraged driving for long periods of time and skipping breaks. Their policies included incentives based on number of deliveries. Also, if drivers failed to meet delivery goals, they could be reprimanded, given poor performance appraisals, and eventually fired for unsatisfactory performance.

6. The truck driver, Robert Branch, had been awake for 22 consecutive hours prior to the accident. Twenty of these hours were spent on the road with breaks only to refuel and drop off his loads.

7. On four separate occasions during the year prior to this accident, drivers for MG Shipping had been cited by various highway authorities for violating regulations related to limits on consecutive driving hours. MG Shipping was aware of these citations and reimbursed the drivers for the fines; however, they did not change the incentive policies. Also, two drivers during the one-year period had been involved in minor accidents where the probable cause had been falling asleep at the wheel. Again, MG Shipping was aware of these incidents.

8. Since the adoption of the policy, MG Shipping's profits have increased dramatically.

9. Four days before this accident Robert Branch, the truck driver, had been told by his supervisor at MG Shipping that his delivery performance had been unsatisfactory. Specifically, he was told that if he did not deliver more loads he would be terminated. This information was written in his performance appraisal, which was included in the records presented at trial.

10. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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In determining the liability (fault), the jury decided that MG Shipping was 100% responsible. The jury awarded Jacob $6,250,000 for economic damages.

The plaintiffs, Jacob and his family, also sued for pain and suffering damages. This category includes physical pain, the loss of consortium between Jacob and his wife (such as sexual interaction), limitations on the types of interactions he
can have with his child and his inability to engage in many activities he previously enjoyed. The jury awarded $5,000,000 for pain and suffering.

This means Jacob and his family will receive a total compensatory award of $11,250,000.

A third and last award decision the jury has to make concerns punitive damages. Jacob and his family contend that MG Shipping should be punished as a result of their "conscious disregard" (a legal term) for safety. The plaintiff's argument is that MG Shipping knew about the hazards associated with their employees driving excessive numbers of consecutive hours with too little rest. They were also accused of being aware that in many instances drivers were violating highway regulations. It was further pointed out that despite this knowledge, MG Shipping continued their policies, which encouraged dangerous practices such as those that resulted in Jacob Foley's injuries. MG Shipping's financial records indicate that profits have increased from $900,000 two years ago, before implementing their questionable policy, to $3,500,000 last year.

The jury must now decide whether to award punitive damages, and if, so how much.

In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario BT SVL

Recipient: PLAINIFF
Pain and Suffering: LOW
Profit Information: GIVEN

Brian Tanner was seriously injured when his power drill malfunctioned. The drill was manufactured by Milwaukee Company. Brian was standing on a properly installed scaffold drilling into the ceiling of a sports facility that his employer, a construction company, was building. The drill bit became lodged and the drill itself began to spin backward powerfully. Brian was holding the drill, and at that point he lost his balance and fell 17 feet to the auditorium floor, fracturing his lower vertebrae. As a result, he has permanent lower body paralysis and is confined to a wheelchair.

Brian is 32 years old and had worked in construction since he was 18. He had been with the present company for 10 years and was promoted to foreman 2 months prior to the accident. He was on the scaffolding that day because one of the regular workers who would have been doing this task had called in sick. Brian was always the kind of guy who would pitch in and help where needed. Due to the accident he can no longer work in the construction industry. He is married with two children, a girl age 9 and a boy age 7.

As a result of the accident and injuries Brian filed a lawsuit against Milwaukee Company contending that design and marketing defects in the drill caused it to fail, which in turn caused the accident and injuries. Evidence presented at the trial included the following:

1. The drill was manufactured in December of 1999 by Milwaukee Co. Milwaukee Co. recommended that only experienced contractors should use this product. In the first 12 months after this model of the drill was introduced, there were over 180 accidents caused by the drill bit becoming lodged, all involving experienced contractors. After-market tests revealed the drill bit is 30 times more likely to become lodged than other power drills.

2. An engineering expert testified that a series of tests revealed that the design of the drill was faulty. When used to drill into certain types of materials, the drill bit would lockup and the drill itself would spin with great force. Further, this problem could occur when drilling into materials for which the drill was supposedly appropriate.

3. Documents made available at trial indicated that this is the most powerful drill on the market and there had been a very profitable market for it. Milwaukee Co.'s executives decided to continue to sell the product despite its accident history. Settling lawsuits involving injuries due to drill bit malfunction was
deemed to be more cost effective than discontinuing the drill or recalling it for modification.

4. An internal communication was also presented at the trial detailing the company’s decision not to include warning material pertaining to the propensity of the drill to get lodged if used in certain types of materials. The lack of warnings is considered a marketing defect. The added cost of including a warning would be negligible, but there was concern that it would unnecessarily alarm the consumer. A Milwaukee executive stated, "The presence of a warning could hinder the phenomenal sales of our most profitable product to date."

5. An expert witness who specialized in safety communications testified that a warning would have prevented Brian’s serious injuries. A warning on the drill itself would have alerted Brian to the possibility of the bit becoming lodged in that particular application, and he would not have been so taken by surprise.

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In determining the liability (fault), the jury decided that Milwaukee Company was 100% responsible. The jury awarded Brian $2,950,000 for economic damages.

The plaintiffs (Brian and his family) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium with his wife (such as sexual interaction), limitations on the types of interactions he can have with his children and future grandchildren, inability to engage in many activities he previously enjoyed, and a loss of self-esteem. The jury awarded Brian and his family $900,000 for pain and suffering.

This means Brian and his family will receive a total compensatory award of $3,850,000.

A third and last award decision the jury has to make concerns punitive damages. Brian and his family contend that Milwaukee Company should be punished as a result of their “conscious disregard” (a legal term) for their customers’ safety. The plaintiff’s argument is that Milwaukee Company knew about the safety problem, had available a design solution that could have been implemented by recalling and fixing the drill or by offering a properly designed replacement. Also, it could have provided a good warning with the drill, which would have enabled customers to avoid unsafe applications. They further contend that the
manufacturer rejected these solutions because of greater short-term profits and a lack of concern for user safety. Financial records of the company introduced in the trial indicate a profit of a little over $5,000,000 from the sale of this drill in the two years since its introduction.

The jury must now decide whether to award punitive damages, and if, so how much.

In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario SM

Recipient: PLAINTIFF
Pain and Suffering: LOW
Profit Information: GIVEN

Last summer Sally Morris, suffered burns over 65% of her body due to a fire at the Mountain Lake Resort Hotel. The fire began in the electrical room; specifically, a breaker in the Theft Prevention alarm system box overloaded and caught fire. The fire quickly spread throughout the lobby. The smoke and heat detectors, which were designed, sold, installed and maintained by Safety Alarm Corporation (SAC), did not respond. Consequently, the sound alarm and sprinkler system (also designed, sold, installed and maintained by SAC) were not engaged. Sally was on the 5th floor, oblivious to the fire, as the alarm was not activated. She got on the elevator, which was still functioning, to go to the lobby to checkout. When the doors opened, she was engulfed in flames.

Sally, 25 years old, was on a couple’s retreat with her husband and her brother and sister-in-law. She had gone down to the lobby to check out for both rooms while her companions stayed behind to finish packing. As a result of the accident Sally was in a burn center for two months, and she has undergone numerous surgeries and 17 skin grafts.

SAC and the Venetian Hotel Group (owner of the Mountain Lake Resort Hotel in question) had recently begun negotiations to renew their contract. During negotiations, SAC suspended maintenance and monitoring service to all member hotels in that chain. SAC, however, did not notify the Hotel Group or the member hotels that these services were not being performed.

As a result of the accident and injuries Sally filed a lawsuit against SAC contending that their policy to suspend the critical hotel fire safety service was irresponsible and resulted in the fire spreading which in turn caused her injuries. Evidence presented at the trial included the following:

1. Medical testimony indicated that despite skin grafting, Sally would continue to have facial scars. Also, she would experience some moderate levels of pain, particularly associated with certain body movements. Consequently, her physical activities would be permanently curtailed. She was also strongly advised against having children.

2. Sally had been a well-paid model for a major department store chain for the past 4 years. Due to the scarring and limitations on physical movement, she will not be able to continue in that profession.
3. Sally’s former employer testified that she was regarded as one of their best models and that her prospects to achieve success and high income as a model were excellent.

4. Sally had two years of college before becoming a model. She was slightly above average as a student. A vocational expert testified that if she completed a college degree, she would definitely be employable, but that her expected income potential would not approach what would have been expected from a successful modeling career.

5. SAC claimed that its suspension of services to the hotel group was unintended and the result of misunderstandings. During the trial, however, several present and past employees of SAC testified that it was an unwritten policy of SAC to actively terminate service calls, including system maintenance, to any corporate client when contract negotiations were taking place, though the contracts had actually not expired. Such measures cut costs, since equipment upgrades were required at these maintenance calls, as was the case at the Venetian resort.

6. Testimony at the trial revealed that while SAC and the Venetian Group were negotiating a renewal of their contract at the time of the fire, the current contract had not yet expired. In other words, at the time of the fire SAC was violating the existing contract by not providing the fire alarm system service.

7. An expert on hotel fire alarm systems testified that an analysis and reconstruction of the fire incident revealed that the failure of the system was the result of a damaged detector in the area where the fire originated. Further, the normal maintenance schedule would have resulted in this detector being inspected two days before the fire. Had the detector been replaced and functioned, the fire would have been detected much earlier, the alarm system would have sounded, and the sprinkler system in the fire area would have been activated and contained the spread of the fire. Further, Sally’s injuries would have been prevented.

8. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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<th>Description</th>
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<td>Past and future lost wages</td>
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<td>Other economic considerations, such as hiring people</td>
<td>300,000</td>
</tr>
<tr>
<td>to do things that Sally did</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$2,200,000</td>
</tr>
</tbody>
</table>

In determining the liability (fault), the jury decided that SAC was 100% responsible. The jury awarded Sally $2,200,000 for economic damages.
The plaintiffs (Sally and her husband) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium (such as limited sexual interaction), inability to engage in many activities she previously enjoyed, and a loss of self-esteem. The jury awarded Sally and her husband $237,500 for pain and suffering.

This means Sally and her family will receive a total compensatory award of $2,437,500.

A third and last award decision the jury has to make concerns punitive damages. Sally and her husband contend that SAC should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that SAC not only violated a contract, but knew that their failure to carry out inspections and maintenance of the hotel fire detection and alarm system could cause not only substantial property damage as occurred in the hotel, but catastrophic injuries or deaths as well. SAC's financial records indicated that for the previous year the company had over $10,000,000 in profits from the fire alarm portion of their business.

The jury must now decide whether to award punitive damages, and if, so how much.

In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario JF

Recipient: PLAINTIFF
Pain and Suffering: LOW
Profit Information: GIVEN

Jacob Foley was badly injured while driving his mini van on a four-lane highway, two lanes in each direction. He and his brother Peter had been visiting their mother who lived alone since the death of their father 18 months earlier. It was approximately 9:30 p.m., and Jacob was going to drop Peter off at his house and continue to his own home. A semi truck crossed the median into oncoming traffic and crashed into the left front of Jacob’s vehicle.

Jacob suffered serious head and arm injuries. Peter was sitting in the right front passenger seat and was not seriously injured. He was able to give an account of the events of the accident. He reported that Jacob was driving under the posted 55-mph speed limit and had not been drinking. Jacob was in the left lane and was unable to avoid the truck because there was another car in the right lane.

The driver of the semi, Robert Branch, had been a truck driver for 5 years. He fell asleep at the wheel for only a moment but did not recover in time to regain control of the vehicle.

As a result of the accident and injuries, Jacob filed a lawsuit against MG Shipping, the owner of the semi truck and Robert Branch’s employer. Evidence presented at the trial included the following:

1. Jacob was 29 years old at the time of the accident. He was married and had one child, a four-year old boy. He had a B.S. degree in mechanical engineering and an MBA, both from the University of Michigan. He was employed in the marketing division of Ford Motor Company.

2. Jacob’s head injuries resulted in some brain damage that in turn resulted in deficits in reasoning ability and speech. He also suffered significant hearing loss and facial scaring. His left hand and arm were crushed, resulting in the amputation of the arm six inches above the elbow. He spent over 5 weeks in the hospital following the accident, and he will require therapy indefinitely.

3. A vocational analysis expert testified that while Jacob might eventually be employable at a low to moderate income level of work, he is not expected to be able to function in the kind of job he had at Ford.

4. An accident reconstruction expert confirmed that Jacob was driving approximately 52 miles per hour. Both Jacob and Peter were properly wearing their seat belts. Results of the blood analysis indicated Jacob had not been drinking or using any drugs or medications.
5. MG Shipping, the owner of the semi, operated a fleet of 11 trucks that dealt mostly in middle range (less than 200 miles) transport of heavy equipment. For profit reasons, they had adopted a policy six months prior to the accident that encouraged driving for long periods of time and skipping breaks. Their policies included incentives based on number of deliveries. Also, if drivers failed to meet delivery goals, they could be reprimanded, given poor performance appraisals, and eventually fired for unsatisfactory performance.

6. The truck driver, Robert Branch, had been awake for 22 consecutive hours prior to the accident. Twenty of these hours were spent on the road with breaks only to refuel and drop off his loads.

7. On four separate occasions during the year prior to this accident, drivers for MG Shipping had been cited by various highway authorities for violating regulations related to limits on consecutive driving hours. MG Shipping was aware of these citations and reimbursed the drivers for the fines; however, they did not change the incentive policies. Also, two drivers during the one-year period had been involved in minor accidents where the probable cause had been falling asleep at the wheel. Again, MG Shipping was aware of these incidents.

8. Since the adoption of the policy, MG Shipping’s profits have increased dramatically.

9. Four days before this accident Robert Branch, the truck driver, had been told by his supervisor at MG Shipping that his delivery performance had been unsatisfactory. Specifically, he was told that if he did not deliver more loads he would be terminated. This information was written in his performance appraisal, which was included in the records presented at trial.

10. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

| Past and future medical costs and care | $2,100,000 |
| Past and future net lost wages | 2,600,000 |
| Other economic considerations, such as hiring people to do things that Jacob does | 1,550,000 |

**Total** $6,250,000

In determining the liability (fault), the jury decided that MG Shipping was 100% responsible. The jury awarded Jacob $6,250,000 for economic damages.

The plaintiffs, Jacob and his family, also sued for pain and suffering damages. This category includes physical pain, the loss of consortium between Jacob and his wife (such as sexual interaction), limitations on the types of interactions he
can have with his child and his inability to engage in many activities he previously enjoyed. The jury awarded $650,000 for pain and suffering.

This means Jacob and his family will receive a total compensatory award of $6,850,000.

A third and last award decision the jury has to make concerns punitive damages. Jacob and his family contend that MG Shipping should be punished as a result of their "conscious disregard" (a legal term) for safety. The plaintiff's argument is that MG Shipping knew about the hazards associated with their employees driving excessive numbers of consecutive hours with too little rest. They were also accused of being aware that in many instances drivers were violating highway regulations. It was further pointed out that despite this knowledge, MG Shipping continued their policies, which encouraged dangerous practices such as those that resulted in Jacob Foley's injuries. MG Shipping's financial records indicate that profits have increased from $900,000 two years ago, before implementing their questionable policy, to $3,500,000 last year.

The jury must now decide whether to award punitive damages, and if, so how much.

In the state where the trial is being held, punitive damages go to the plaintiff.

Write what you would award on the line below.
Scenario BT GH

Recipient: GOVERNMENT
Pain and Suffering: HIGH
Profit Information: NONE

Brian Tanner was seriously injured when his power drill malfunctioned. The drill was manufactured by Milwaukee Company. Brian was standing on a properly installed scaffold drilling into the ceiling of a sports facility that his employer, a construction company, was building. The drill bit became lodged and the drill itself began to spin backward powerfully. Brian was holding the drill, and at that point he lost his balance and fell 17 feet to the auditorium floor, fracturing his lower vertebrae. As a result, he has permanent lower body paralysis and is confined to a wheelchair.

Brian is 32 years old and had worked in construction since he was 18. He had been with the present company for 10 years and was promoted to foreman 2 months prior to the accident. He was on the scaffolding that day because one of the regular workers who would have been doing this task had called in sick. Brian was always the kind of guy who would pitch in and help where needed. Due to the accident he can no longer work in the construction industry. He is married with two children, a girl age 9 and a boy age 7.

As a result of the accident and injuries Brian filed a lawsuit against Milwaukee Company contending that design and marketing defects in the drill caused it to fail, which in turn caused the accident and injuries. Evidence presented at the trial included the following:

1. The drill was manufactured in December of 1999 by Milwaukee Co. Milwaukee Co. recommended that only experienced contractors should use this product. In the first 12 months after this model of the drill was introduced, there were over 180 accidents caused by the drill bit becoming lodged, all involving experienced contractors. After-market tests revealed the drill bit is 30 times more likely to become lodged than other power drills.

2. An engineering expert testified that a series of tests revealed that the design of the drill was faulty. When used to drill into certain types of materials, the drill bit would lockup and the drill itself would spin with great force. Further, this problem could occur when drilling into materials for which the drill was supposedly appropriate.

3. Documents made available at trial indicated that this is the most powerful drill on the market and there had been a very profitable market for it. Milwaukee Co.’s executives decided to continue to sell the product despite its accident history. Settling lawsuits involving injuries due to drill bit malfunction was
deemed to be more cost effective than discontinuing the drill or recalling it for modification.

4. An internal communication was also presented at the trial detailing the company’s decision not to include warning material pertaining to the propensity of the drill to get lodged if used in certain types of materials. The lack of warnings is considered a marketing defect. The added cost of including a warning would be negligible, but there was concern that it would unnecessarily alarm the consumer. A Milwaukee executive stated, "The presence of a warning could hinder the phenomenal sales of our most profitable product to date."

5. An expert witness who specialized in safety communications testified that a warning would have prevented Brian’s serious injuries. A warning on the drill itself would have alerted Brian to the possibility of the bit becoming lodged in that particular application, and he would not have been so taken by surprise.

4. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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In determining the liability (fault), the jury decided that Milwaukee Company was 100% responsible. The jury awarded Brian $2,950,000 for economic damages.

The plaintiffs (Brian and his family) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium with his wife (such as sexual interaction), limitations on the types of interactions he can have with his children and future grandchildren, inability to engage in many activities he previously enjoyed, and a loss of self-esteem. The jury awarded Brian and his family $5,000,000 for pain and suffering.

This means Brian and his family will receive a total compensatory award of $7,950,000.

A third and last award decision the jury has to make concerns punitive damages. Brian and his family contend that Milwaukee Company should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that Milwaukee Company knew about the safety problem, had available a design solution that could have been implemented by recalling and fixing the drill or by offering a properly designed replacement. Also, it could have provided a good warning with the drill, which would have enabled customers to avoid unsafe applications. They further contend that the
manufacturer rejected these solutions because of greater short-term profits and a lack of concern for user safety.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund that must be used for research on public safety and health issues. The fund is administered by a board appointed by the Governor.

Write what you would award on the line below.
Scenario SM

Recipient: GOVERNMENT
Pain and Suffering: HIGH
Profit Information: NONE

Last summer Sally Morris, suffered burns over 65% of her body due to a fire at the Mountain Lake Resort Hotel. The fire began in the electrical room; specifically, a breaker in the Theft Prevention alarm system box overloaded and caught fire. The fire quickly spread throughout the lobby. The smoke and heat detectors, which were designed, sold, installed and maintained by Safety Alarm Corporation (SAC), did not respond. Consequentially, the sound alarm and sprinkler system (also designed, sold, installed and maintained by SAC) were not engaged. Sally was on the 5th floor, oblivious to the fire, as the alarm was not activated. She got on the elevator, which was still functioning, to go to the lobby to checkout. When the doors opened, she was engulfed in flames.

Sally, 25 years old, was on a couple’s retreat with her husband and her brother and sister-in-law. She had gone down to the lobby to check out for both rooms while her companions stayed behind to finish packing. As a result of the accident Sally was in a burn center for two months, and she has undergone numerous surgeries and 17 skin grafts.

SAC and the Venetian Hotel Group (owner of the Mountain Lake Resort Hotel in question) had recently begun negotiations to renew their contract. During negotiations, SAC suspended maintenance and monitoring service to all member hotels in that chain. SAC, however, did not notify the Hotel Group or the member hotels that these services were not being performed.

As a result of the accident and injuries Sally filed a lawsuit against SAC contending that their policy to suspend the critical hotel fire safety service was irresponsible and resulted in the fire spreading which in turn caused her injuries. Evidence presented at the trial included the following:

1. Medical testimony indicated that despite skin grafting, Sally would continue to have facial scars. Also, she would experience some moderate levels of pain, particularly associated with certain body movements. Consequently, her physical activities would be permanently curtailed. She was also strongly advised against having children.

2. Sally had been a well-paid model for a major department store chain for the past 4 years. Due to the scarring and limitations on physical movement, she will not be able to continue in that profession.
3. Sally’s former employer testified that she was regarded as one of their best models and that her prospects to achieve success and high income as a model were excellent.

4. Sally had two years of college before becoming a model. She was slightly above average as a student. A vocational expert testified that if she completed a college degree, she would definitely be employable, but that her expected income potential would not approach what would have been expected from a successful modeling career.

5. SAC claimed that its suspension of services to the hotel group was unintended and the result of misunderstandings. During the trial, however, several present and past employees of SAC testified that it was an unwritten policy of SAC to actively terminate service calls, including system maintenance, to any corporate client when contract negotiations were taking place, though the contracts had actually not expired. Such measures cut costs, since equipment upgrades were required at these maintenance calls, as was the case at the Venetian resort.

6. Testimony at the trial revealed that while SAC and the Venetian Group were negotiating a renewal of their contract at the time of the fire, the current contract had not yet expired. In other words, at the time of the fire SAC was violating the existing contract by not providing the fire alarm system service.

7. An expert on hotel fire alarm systems testified that an analysis and reconstruction of the fire incident revealed that the failure of the system was the result of a damaged detector in the area where the fire originated. Further, the normal maintenance schedule would have resulted in this detector being inspected two days before the fire. Had the detector been replaced and functioned, the fire would have been detected much earlier, the alarm system would have sounded, and the sprinkler system in the fire area would have been activated and contained the spread of the fire. Further, Sally’s injuries would have been prevented.

8. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:
   - Past and future medical costs and care $1,100,000
   - Past and future lost wages 800,000
   - Other economic considerations, such as hiring people to do things that Sally did 300,000
   - Total $2,200,000

In determining the liability (fault), the jury decided that SAC was 100% responsible. The jury awarded Sally and her husband $2,200,000 for economic damages.
The plaintiffs (Sally and her husband) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium (such as limited sexual interaction), inability to engage in many activities she previously enjoyed, and a loss of self-esteem. The jury awarded Sally and her husband $5,437,500 for pain and suffering.

This means Sally and her family will receive a total compensatory award of $7,637,500.

A third and last award decision the jury has to make concerns punitive damages. Sally and her husband contend that SAC should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that SAC not only violated a contract, but knew that their failure to carry out inspections and maintenance of the hotel fire detection and alarm system could cause not only substantial property damage as occurred in the hotel, but catastrophic injuries or deaths as well.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund to support research in the area of public safety and health. It is administered by a panel appointed by the Governor.

Write what you would award on the line below.
Scenario JF

Recipient: GOVERNMENT
Pain and Suffering: HIGH
Profit Information: NONE

Jacob Foley was badly injured while driving his mini van on a four-lane highway, two lanes in each direction. He and his brother Peter had been visiting their mother who lived alone since the death of their father 18 months earlier. It was approximately 9:30 p.m., and Jacob was going to drop Peter off at his house and continue to his own home. A semi truck crossed the median into oncoming traffic and crashed into the left front of Jacob’s vehicle.

Jacob suffered serious head and arm injuries. Peter was sitting in the right front passenger seat and was not seriously injured. He was able to give an account of the events of the accident. He reported that Jacob was driving under the posted 55-mpg speed limit and had not been drinking. Jacob was in the left lane and was unable to avoid the truck because there was another car in the right lane.

The driver of the semi, Robert Branch, had been a truck driver for 5 years. He fell asleep at the wheel for only a moment but did not recover in time to regain control of the vehicle.

As a result of the accident and injuries, Jacob filed a lawsuit against MG Shipping, the owner of the semi truck and Robert Branch’s employer. Evidence presented at the trial included the following:

1. Jacob was 29 years old at the time of the accident. He was married and had one child, a four-year old boy. He had a B.S. degree in mechanical engineering and an MBA, both from the University of Michigan. He was employed in the marketing division of Ford Motor Company.

2. Jacob’s head injuries resulted in some brain damage that in turn resulted in deficits in reasoning ability and speech. He also suffered significant hearing loss and facial scaring. His left hand and arm were crushed, resulting in the amputation of the arm six inches above the elbow. He spent over 5 weeks in the hospital following the accident, and he will require therapy indefinitely.

3. A vocational analysis expert testified that while Jacob might eventually be employable at a low to moderate income level of work, he is not expected to be able to function in the kind of job he had at Ford.

4. An accident reconstruction expert confirmed that Jacob was driving approximately 52 miles per hour. Both Jacob and Peter were properly wearing their seat belts. Results of the blood analysis indicated Jacob had not been drinking or using any drugs or medications.
5. MG Shipping, the owner of the semi, operated a fleet of 11 trucks that dealt mostly in middle range (less than 200 miles) transport of heavy equipment. For profit reasons, they had adopted a policy six months prior to the accident that encouraged driving for long periods of time and skipping breaks. Their policies included incentives based on number of deliveries. Also, if drivers failed to meet delivery goals, they could be reprimanded, given poor performance appraisals, and eventually fired for unsatisfactory performance.

6. The truck driver, Robert Branch, had been awake for 22 consecutive hours prior to the accident. Twenty of these hours were spent on the road with breaks only to refuel and drop off his loads.

7. On four separate occasions during the year prior to this accident, drivers for MG Shipping had been cited by various highway authorities for violating regulations related to limits on consecutive driving hours. MG Shipping was aware of these citations and reimbursed the drivers for the fines; however, they did not change the incentive policies. Also, two drivers during the one-year period had been involved in minor accidents where the probable cause had been falling asleep at the wheel. Again, MG Shipping was aware of these incidents.

8. Four days before this accident Robert Branch, the truck driver, had been told by his supervisor at MG Shipping that his delivery performance had been unsatisfactory. Specifically, he was told that if he did not deliver more loads he would be terminated. This information was written in his performance appraisal, which was included in the records presented at trial.

9. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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In determining the liability (fault), the jury decided that MG Shipping was 100% responsible. The jury awarded Jacob $6,250,000 for economic damages.

The plaintiffs, Jacob and his family, also sued for pain and suffering damages. This category includes physical pain, the loss of consortium between Jacob and his wife (such as sexual interaction), limitations on the types of interactions he can have with his child and his inability to engage in many activities he previously enjoyed. The jury awarded $5,000,000 for pain and suffering.
This means Jacob and his family will receive a total compensatory award of
$11,250,000.

A third and last award decision the jury has to make concerns punitive damages.
Jacob and his family contend that MG Shipping should be punished as a result of
their “conscious disregard” (a legal term) for safety. The plaintiff’s argument is
that MG Shipping knew about the hazards associated with their employees
driving excessive numbers of consecutive hours with too little rest. They were
also accused of being aware that in many instances drivers were violating
highway regulations. It was further pointed out that despite this knowledge, MG
Shipping continued their policies, which encouraged dangerous practices such
as those that resulted in Jacob Foley’s injuries.

The jury must now decide whether to award punitive damages, and if, so how
much. In the state where the trial is being held, punitive damages go to a fund
for basic research and education on public safety. The fund is administered by a
panel appointed by the Governor.

Write what you would award on the line below.
Scenario BT

Recipient: GOVERNMENT
Pain and Suffering: LOW
Profit Information: NONE

Brian Tanner was seriously injured when his power drill malfunctioned. The drill was manufactured by Milwaukee Company. Brian was standing on a properly installed scaffold drilling into the ceiling of a sports facility that his employer, a construction company, was building. The drill bit became lodged and the drill itself began to spin backward powerfully. Brian was holding the drill, and at that point he lost his balance and fell 17 feet to the auditorium floor, fracturing his lower vertebrae. As a result, he has permanent lower body paralysis and is confined to a wheelchair.

Brian is 32 years old and had worked in construction since he was 18. He had been with the present company for 10 years and was promoted to foreman 2 months prior to the accident. He was on the scaffolding that day because one of the regular workers who would have been doing this task had called in sick. Brian was always the kind of guy who would pitch in and help where needed. Due to the accident he can no longer work in the construction industry. He is married with two children, a girl age 9 and a boy age 7.

As a result of the accident and injuries Brian filed a lawsuit against Milwaukee Company contending that design and marketing defects in the drill caused it to fail, which in turn caused the accident and injuries. Evidence presented at the trial included the following:

1. The drill was manufactured in December of 1999 by Milwaukee Co. Milwaukee Co. recommended that only experienced contractors should use this product. In the first 12 months after this model of the drill was introduced, there were over 180 accidents caused by the drill bit becoming lodged, all involving experienced contractors. After-market tests revealed the drill bit is 30 times more likely to become lodged than other power drills.

2. An engineering expert testified that a series of tests revealed that the design of the drill was faulty. When used to drill into certain types of materials, the drill bit would lockup and the drill itself would spin with great force. Further, this problem could occur when drilling into materials for which the drill was supposedly appropriate.

3. Documents made available at trial indicated that this is the most powerful drill on the market and there had been a very profitable market for it. Milwaukee Co.'s executives decided to continue to sell the product despite its accident history. Settling lawsuits involving injuries due to drill bit malfunction was
deemed to be more cost effective than discontinuing the drill or recalling it for modification.

4. An internal communication was also presented at the trial detailing the company's decision not to include warning material pertaining to the propensity of the drill to get lodged if used in certain types of materials. The lack of warnings is considered a marketing defect. The added cost of including a warning would be negligible, but there was concern that it would unnecessarily alarm the consumer. A Milwaukee executive stated, "The presence of a warning could hinder the phenomenal sales of our most profitable product to date."

5. An expert witness who specialized in safety communications testified that a warning would have prevented Brian's serious injuries. A warning on the drill itself would have alerted Brian to the possibility of the bit becoming lodged in that particular application, and he would not have been so taken by surprise.

4. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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In determining the liability (fault), the jury decided that Milwaukee Company was 100% responsible. The jury awarded Brian $2,950,000 for economic damages.

The plaintiffs (Brian and his family) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium with his wife (such as sexual interaction), limitations on the types of interactions he can have with his children and future grandchildren, inability to engage in many activities he previously enjoyed, and a loss of self-esteem. The jury awarded Brian and his family $900,000 for pain and suffering.

This means Brian and his family will receive a total compensatory award of $3,850,000.

A third and last award decision the jury has to make concerns punitive damages. Brian and his family contend that Milwaukee Company should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that Milwaukee Company knew about the safety problem, had available a design solution that could have been implemented by recalling and fixing the drill or by offering a properly designed replacement. Also, it could have provided a good warning with the drill, which would have enabled customers to avoid unsafe applications. They further contend that the
manufacturer rejected these solutions because of greater short-term profits and a lack of concern for user safety.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund that must be used for research on public safety and health issues. The fund is administered by a board appointed by the Governor.

Write what you would award on the line below.
Scenario SM

Recipient: GOVERNMENT  
Pain and Suffering: LOW  
Profit Information: NONE

Last summer Sally Morris, suffered burns over 65% of her body due to a fire at the Mountain Lake Resort Hotel. The fire began in the electrical room; specifically, a breaker in the Theft Prevention alarm system box overloaded and caught fire. The fire quickly spread throughout the lobby. The smoke and heat detectors, which were designed, sold, installed and maintained by Safety Alarm Corporation (SAC), did not respond. Consequentially, the sound alarm and sprinkler system (also designed, sold, installed and maintained by SAC) were not engaged. Sally was on the 5th floor, oblivious to the fire, as the alarm was not activated. She got on the elevator, which was still functioning, to go to the lobby to checkout. When the doors opened, she was engulfed in flames.

Sally, 25 years old, was on a couple’s retreat with her husband and her brother and sister-in-law. She had gone down to the lobby to check out for both rooms while her companions stayed behind to finish packing. As a result of the accident Sally was in a burn center for two months, and she has undergone numerous surgeries and 17 skin grafts.

SAC and the Venetian Hotel Group (owner of the Mountain Lake Resort Hotel in question) had recently begun negotiations to renew their contract. During negotiations, SAC suspended maintenance and monitoring service to all member hotels in that chain. SAC, however, did not notify the Hotel Group or the member hotels that these services were not being performed.

As a result of the accident and injuries Sally filed a lawsuit against SAC contending that their policy to suspend the critical hotel fire safety service was irresponsible and resulted in the fire spreading which in turn caused her injuries. Evidence presented at the trial included the following:

1. Medical testimony indicated that despite skin grafting, Sally would continue to have facial scars. Also, she would experience some moderate levels of pain, particularly associated with certain body movements. Consequently, her physical activities would be permanently curtailed. She was also strongly advised against having children.

2. Sally had been a well-paid model for a major department store chain for the past 4 years. Due to the scaring and limitations on physical movement, she will not be able to continue in that profession.
3. Sally’s former employer testified that she was regarded as one of their best models and that her prospects to achieve success and high income as a model were excellent.

4. Sally had two years of college before becoming a model. She was slightly above average as a student. A vocational expert testified that if she completed a college degree, she would definitely be employable, but that her expected income potential would not approach what would have been expected from a successful modeling career.

5. SAC claimed that its suspension of services to the hotel group was unintended and the result of misunderstandings. During the trial, however, several present and past employees of SAC testified that it was an unwritten policy of SAC to actively terminate service calls, including system maintenance, to any corporate client when contract negotiations were taking place, though the contracts had actually not expired. Such measures cut costs, since equipment upgrades were required at these maintenance calls, as was the case at the Venetian resort.

6. Testimony at the trial revealed that while SAC and the Venetian Group were negotiating a renewal of their contract at the time of the fire, the current contract had not yet expired. In other words, at the time of the fire SAC was violating the existing contract by not providing the fire alarm system service.

7. An expert on hotel fire alarm systems testified that an analysis and reconstruction of the fire incident revealed that the failure of the system was the result of a damaged detector in the area where the fire originated. Further, the normal maintenance schedule would have resulted in this detector being inspected two days before the fire. Had the detector been replaced and functioned, the fire would have been detected much earlier, the alarm system would have sounded, and the sprinkler system in the fire area would have been activated and contained the spread of the fire. Further, Sally’s injuries would have been prevented.

8. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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In determining the liability (fault), the jury decided that SAC was 100% responsible. The jury awarded Sally $2,200,000 for economic damages.
The plaintiffs (Sally and her husband) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium (such as limited sexual interaction), inability to engage in many activities she previously enjoyed, and a loss of self-esteem. The jury awarded Sally and her husband $237,500 for pain and suffering.

This means Sally and her family will receive a total compensatory award of $2,437,500.

A third and last award decision the jury has to make concerns punitive damages. Sally and her husband contend that SAC should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that SAC not only violated a contract, but knew that their failure to carry out inspections and maintenance of the hotel fire detection and alarm system could cause not only substantial property damage as occurred in the hotel, but catastrophic injuries or deaths as well.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund to support research in the area of public safety and health. It is administered by a panel appointed by the Governor.

Write what you would award on the line below.
Scenario JF

Recipient: GOVERNMENT
Pain and Suffering: LOW
Profit Information: NONE

Jacob Foley was badly injured while driving his mini van on a four-lane highway, two lanes in each direction. He and his brother Peter had been visiting their mother who lived alone since the death of their father 18 months earlier. It was approximately 9:30 p.m., and Jacob was going to drop Peter off at his house and continue to his own home. A semi truck crossed the median into oncoming traffic and crashed into the left front of Jacob’s vehicle.

Jacob suffered serious head and arm injuries. Peter was sitting in the right front passenger seat and was not seriously injured. He was able to give an account of the events of the accident. He reported that Jacob was driving under the posted 55-mph speed limit and had not been drinking. Jacob was in the left lane and was unable to avoid the truck because there was another car in the right lane.

The driver of the semi, Robert Branch, had been a truck driver for 5 years. He fell asleep at the wheel for only a moment but did not recover in time to regain control of the vehicle.

As a result of the accident and injuries, Jacob filed a lawsuit against MG Shipping, the owner of the semi truck and Robert Branch’s employer. Evidence presented at the trial included the following:

1. Jacob was 29 years old at the time of the accident. He was married and had one child, a four-year old boy. He had a B.S. degree in mechanical engineering and an MBA, both from the University of Michigan. He was employed in the marketing division of Ford Motor Company.

2. Jacob’s head injuries resulted in some brain damage that in turn resulted in deficits in reasoning ability and speech. He also suffered significant hearing loss and facial scaring. His left hand and arm were crushed, resulting in the amputation of the arm six inches above the elbow. He spent over 5 weeks in the hospital following the accident, and he will require therapy indefinitely.

3. A vocational analysis expert testified that while Jacob might eventually be employable at a low to moderate income level of work, he is not expected to be able to function in the kind of job he had at Ford.

4. An accident reconstruction expert confirmed that Jacob was driving approximately 52 miles per hour. Both Jacob and Peter were properly wearing their seat belts. Results of the blood analysis indicated Jacob had not been drinking or using any drugs or medications.
5. MG Shipping, the owner of the semi, operated a fleet of 11 trucks that dealt mostly in middle range (less than 200 miles) transport of heavy equipment. For profit reasons, they had adopted a policy six months prior to the accident that encouraged driving for long periods of time and skipping breaks. Their policies included incentives based on number of deliveries. Also, if drivers failed to meet delivery goals, they could be reprimanded, given poor performance appraisals, and eventually fired for unsatisfactory performance.

6. The truck driver, Robert Branch, had been awake for 22 consecutive hours prior to the accident. Twenty of these hours were spent on the road with breaks only to refuel and drop off his loads.

7. On four separate occasions during the year prior to this accident, drivers for MG Shipping had been cited by various highway authorities for violating regulations related to limits on consecutive driving hours. MG Shipping was aware of these citations and reimbursed the drivers for the fines; however, they did not change the incentive policies. Also, two drivers during the one-year period had been involved in minor accidents where the probable cause had been falling asleep at the wheel. Again, MG Shipping was aware of these incidents.

8. Four days before this accident Robert Branch, the truck driver, had been told by his supervisor at MG Shipping that his delivery performance had been unsatisfactory. Specifically, he was told that if he did not deliver more loads he would be terminated. This information was written in his performance appraisal, which was included in the records presented at trial.

9. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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In determining the liability (fault), the jury decided that MG Shipping was 100% responsible. The jury awarded Jacob $6,250,000 for economic damages.

The plaintiffs, Jacob and his family, also sued for pain and suffering damages. This category includes physical pain, the loss of consortium between Jacob and his wife (such as sexual interaction), limitations on the types of interactions he can have with his child and his inability to engage in many activities he previously enjoyed. The jury awarded $650,000 for pain and suffering.
This means Jacob and his family will receive a total compensatory award of $6,850,000.

A third and last award decision the jury has to make concerns punitive damages. Jacob and his family contend that MG Shipping should be punished as a result of their "conscious disregard" (a legal term) for safety. The plaintiff's argument is that MG Shipping knew about the hazards associated with their employees driving excessive numbers of consecutive hours with too little rest. They were also accused of being aware that in many instances drivers were violating highway regulations. It was further pointed out that despite this knowledge, MG Shipping continued their policies, which encouraged dangerous practices such as those that resulted in Jacob Foley's injuries.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund for basic research and education on public safety. The fund is administered by a panel appointed by the Governor.

Write what you would award on the line below.

________________________________________
Scenario BT

Recipient: GOVERNMENT
Pain and Suffering: HIGH
Profit Information: GIVEN

Brian Tanner was seriously injured when his power drill malfunctioned. The drill was manufactured by Milwaukee Company. Brian was standing on a properly installed scaffold drilling into the ceiling of a sports facility that his employer, a construction company, was building. The drill bit became lodged and the drill itself began to spin backward powerfully. Brian was holding the drill, and at that point he lost his balance and fell 17 feet to the auditorium floor, fracturing his lower vertebrae. As a result, he has permanent lower body paralysis and is confined to a wheelchair.

Brian is 32 years old and had worked in construction since he was 18. He had been with the present company for 10 years and was promoted to foreman 2 months prior to the accident. He was on the scaffolding that day because one of the regular workers who would have been doing this task had called in sick. Brian was always the kind of guy who would pitch in and help where needed. Due to the accident he can no longer work in the construction industry. He is married with two children, a girl age 9 and a boy age 7.

As a result of the accident and injuries Brian filed a lawsuit against Milwaukee Company contending that design and marketing defects in the drill caused it to fail, which in turn caused the accident and injuries. Evidence presented at the trial included the following:

1. The drill was manufactured in December of 1999 by Milwaukee Co. Milwaukee Co. recommended that only experienced contractors should use this product. In the first 12 months after this model of the drill was introduced, there were over 180 accidents caused by the drill bit becoming lodged, all involving experienced contractors. After-market tests revealed the drill bit is 30 times more likely to become lodged than other power drills.

2. An engineering expert testified that a series of tests revealed that the design of the drill was faulty. When used to drill into certain types of materials, the drill bit would lockup and the drill itself would spin with great force. Further, this problem could occur when drilling into materials for which the drill was supposedly appropriate.

3. Documents made available at trial indicated that this is the most powerful drill on the market and there had been a very profitable market for it. Milwaukee Co.'s executives decided to continue to sell the product despite its accident history. Settling lawsuits involving injuries due to drill bit malfunction was
deemed to be more cost effective than discontinuing the drill or recalling it for modification.

4. An internal communication was also presented at the trial detailing the company's decision not to include warning material pertaining to the propensity of the drill to get lodged if used in certain types of materials. The lack of warnings is considered a marketing defect. The added cost of including a warning would be negligible, but there was concern that it would unnecessarily alarm the consumer. A Milwaukee executive stated, "The presence of a warning could hinder the phenomenal sales of our most profitable product to date."

5. An expert witness who specialized in safety communications testified that a warning would have prevented Brian's serious injuries. A warning on the drill itself would have alerted Brian to the possibility of the bit becoming lodged in that particular application, and he would not have been so taken by surprise.

4. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:
   - Past and future medical costs and care $1,400,000
   - Past and future lost wages 1,300,000
   - Other economic considerations, such as hiring people to do things that Brian did 250,000
   - Total $2,950,000

In determining the liability (fault), the jury decided that Milwaukee Company was 100% responsible. The jury awarded Brian $2,950,000 for economic damages.

The plaintiffs (Brian and his family) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium with his wife (such as sexual interaction), limitations on the types of interactions he can have with his children and future grandchildren, inability to engage in many activities he previously enjoyed, and a loss of self-esteem. The jury awarded Brian and his family $5,000,000 for pain and suffering.

This means Brian and his family will receive a total compensatory award of $7,950,000.

A third and last award decision the jury has to make concerns punitive damages. Brian and his family contend that Milwaukee Company should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that Milwaukee Company knew about the safety problem, had available a design solution that could have been implemented by recalling and fixing the drill or by offering a properly designed replacement. Also, it could have provided a good warning with the drill, which would have enabled customers to avoid unsafe applications. They further contend that the
manufacturer rejected these solutions because of greater short-term profits and a lack of concern for user safety. Financial records of the company introduced in the trial indicate a profit of a little over $5,000,000 from the sale of this drill in the two years since its introduction.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund that must be used for research on public safety and health issues. The fund is administered by a board appointed by the Governor.

Write what you would award on the line below.
Scenario SM

Recipient: GOVERNMENT
Pain and Suffering: HIGH
Profit Information: GIVEN

Last summer Sally Morris, suffered burns over 65% of her body due to a fire at the Mountain Lake Resort Hotel. The fire began in the electrical room; specifically, a breaker in the Theft Prevention alarm system box overloaded and caught fire. The fire quickly spread throughout the lobby. The smoke and heat detectors, which were designed, sold, installed and maintained by Safety Alarm Corporation (SAC), did not respond. Consequently, the sound alarm and sprinkler system (also designed, sold, installed and maintained by SAC) were not engaged. Sally was on the 5th floor, oblivious to the fire, as the alarm was not activated. She got on the elevator, which was still functioning, to go to the lobby to checkout. When the doors opened, she was engulfed in flames.

Sally, 25 years old, was on a couple’s retreat with her husband and her brother and sister-in-law. She had gone down to the lobby to check out for both rooms while her companions stayed behind to finish packing. As a result of the accident Sally was in a burn center for two months, and she has undergone numerous surgeries and 17 skin grafts.

SAC and the Venetian Hotel Group (owner of the Mountain Lake Resort Hotel in question) had recently begun negotiations to renew their contract. During negotiations, SAC suspended maintenance and monitoring service to all member hotels in that chain. SAC, however, did not notify the Hotel Group or the member hotels that these services were not being performed.

As a result of the accident and injuries Sally filed a lawsuit against SAC contending that their policy to suspend the critical hotel fire safety service was irresponsible and resulted in the fire spreading which in turn caused her injuries. Evidence presented at the trial included the following:

1. Medical testimony indicated that despite skin grafting, Sally would continue to have facial scars. Also, she would experience some moderate levels of pain, particularly associated with certain body movements. Consequently, her physical activities would be permanently curtailed. She was also strongly advised against having children.

2. Sally had been a well-paid model for a major department store chain for the past 4 years. Due to the scaring and limitations on physical movement, she will not be able to continue in that profession.
3. Sally’s former employer testified that she was regarded as one of their best models and that her prospects to achieve success and high income as a model were excellent.

4. Sally had two years of college before becoming a model. She was slightly above average as a student. A vocational expert testified that if she completed a college degree, she would definitely be employable, but that her expected income potential would not approach what would have been expected from a successful modeling career.

5. SAC claimed that its suspension of services to the hotel group was unintended and the result of misunderstandings. During the trial, however, several present and past employees of SAC testified that it was an unwritten policy of SAC to actively terminate service calls, including system maintenance, to any corporate client when contract negotiations were taking place, though the contracts had actually not expired. Such measures cut costs, since equipment upgrades were required at these maintenance calls, as was the case at the Venetian resort.

6. Testimony at the trial revealed that while SAC and the Venetian Group were negotiating a renewal of their contract at the time of the fire, the current contract had not yet expired. In other words, at the time of the fire SAC was violating the existing contract by not providing the fire alarm system service.

7. An expert on hotel fire alarm systems testified that an analysis and reconstruction of the fire incident revealed that the failure of the system was the result of a damaged detector in the area where the fire originated. Further, the normal maintenance schedule would have resulted in this detector being inspected two days before the fire. Had the detector been replaced and functioned, the fire would have been detected much earlier, the alarm system would have sounded, and the sprinkler system in the fire area would have been activated and contained the spread of the fire. Further, Sally’s injuries would have been prevented.

8. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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In determining the liability (fault), the jury decided that SAC was 100% responsible. The jury awarded Sally $2,200,000 for economic damages.
The plaintiffs (Sally and her husband) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium (such as limited sexual interaction), inability to engage in many activities she previously enjoyed, and a loss of self-esteem. The jury awarded Sally and her husband $5,437,500 for pain and suffering.

This means Sally and her family will receive a total compensatory award of $7,637,500.

A third and last award decision the jury has to make concerns punitive damages. Sally and her husband contend that SAC should be punished as a result of their “conscious disregard” (a legal term) for their customers’ safety. The plaintiff’s argument is that SAC not only violated a contract, but knew that their failure to carry out inspections and maintenance of the hotel fire detection and alarm system could cause not only substantial property damage as occurred in the hotel, but catastrophic injuries or deaths as well. SAC’s financial records indicated that for the previous year the company had over $10,000,000 in profits from the fire alarm portion of their business.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund to support research in the area of public safety and health. It is administered by a panel appointed by the Governor.

Write what you would award on the line below.
Scenario JF

Recipient: GOVERNMENT
Pain and Suffering: HIGH
Profit Information: GIVEN

Jacob Foley was badly injured while driving his mini van on a four-lane highway, two lanes in each direction. He and his brother Peter had been visiting their mother who lived alone since the death of their father 18 months earlier. It was approximately 9:30 p.m., and Jacob was going to drop Peter off at his house and continue to his own home. A semi truck crossed the median into oncoming traffic and crashed into the left front of Jacob’s vehicle.

Jacob suffered serious head and arm injuries. Peter was sitting in the right front passenger seat and was not seriously injured. He was able to give an account of the events of the accident. He reported that Jacob was driving under the posted 55-mph speed limit and had not been drinking. Jacob was in the left lane and was unable to avoid the truck because there was another car in the right lane.

The driver of the semi, Robert Branch, had been a truck driver for 5 years. He fell asleep at the wheel for only a moment but did not recover in time to regain control of the vehicle.

As a result of the accident and injuries, Jacob filed a lawsuit against MG Shipping, the owner of the semi truck and Robert Branch’s employer. Evidence presented at the trial included the following:

1. Jacob was 29 years old at the time of the accident. He was married and had one child, a four-year old boy. He had a B.S. degree in mechanical engineering and an MBA, both from the University of Michigan. He was employed in the marketing division of Ford Motor Company.

2. Jacob’s head injuries resulted in some brain damage that in turn resulted in deficits in reasoning ability and speech. He also suffered significant hearing loss and facial scaring. His left hand and arm were crushed, resulting in the amputation of the arm six inches above the elbow. He spent over 5 weeks in the hospital following the accident, and he will require therapy indefinitely.

3. A vocational analysis expert testified that while Jacob might eventually be employable at a low to moderate income level of work, he is not expected to be able to function in the kind of job he had at Ford.

4. An accident reconstruction expert confirmed that Jacob was driving approximately 52 miles per hour. Both Jacob and Peter were properly wearing their seat belts. Results of the blood analysis indicated Jacob had not been drinking or using any drugs or medications.
5. MG Shipping, the owner of the semi, operated a fleet of 11 trucks that dealt mostly in middle range (less than 200 miles) transport of heavy equipment. For profit reasons, they had adopted a policy six months prior to the accident that encouraged driving for long periods of time and skipping breaks. Their policies included incentives based on number of deliveries. Also, if drivers failed to meet delivery goals, they could be reprimanded, given poor performance appraisals, and eventually fired for unsatisfactory performance.

6. The truck driver, Robert Branch, had been awake for 22 consecutive hours prior to the accident. Twenty of these hours were spent on the road with breaks only to refuel and drop off his loads.

7. On four separate occasions during the year prior to this accident, drivers for MG Shipping had been cited by various highway authorities for violating regulations related to limits on consecutive driving hours. MG Shipping was aware of these citations and reimbursed the drivers for the fines; however, they did not change the incentive policies. Also, two drivers during the one-year period had been involved in minor accidents where the probable cause had been falling asleep at the wheel. Again, MG Shipping was aware of these incidents.

8. Four days before this accident Robert Branch, the truck driver, had been told by his supervisor at MG Shipping that his delivery performance had been unsatisfactory. Specifically, he was told that if he did not deliver more loads he would be terminated. This information was written in his performance appraisal, which was included in the records presented at trial.

9. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

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Total $6,250,000

In determining the liability (fault), the jury decided that MG Shipping was 100% responsible. The jury awarded Jacob $6,250,000 for economic damages.

The plaintiffs, Jacob and his family, also sued for pain and suffering damages. This category includes physical pain, the loss of consortium between Jacob and his wife (such as sexual interaction), limitations on the types of interactions he can have with his child and his inability to engage in many activities he previously enjoyed. The jury awarded $5,000,000 for pain and suffering.
This means Jacob and his family will receive a total compensatory award of $11,250,000.

A third and last award decision the jury has to make concerns punitive damages. Jacob and his family contend that MG Shipping should be punished as a result of their “conscious disregard” (a legal term) for safety. The plaintiff’s argument is that MG Shipping knew about the hazards associated with their employees driving excessive numbers of consecutive hours with too little rest. They were also accused of being aware that in many instances drivers were violating highway regulations. It was further pointed out that despite this knowledge, MG Shipping continued their policies, which encouraged dangerous practices such as those that resulted in Jacob Foley's injuries. MG Shipping’s financial records indicate that profits have increased from $900,000 two years ago, before implementing their questionable policy, to $3,500,000 last year.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund for basic research and education on public safety. The fund is administered by a panel appointed by the Governor.

Write what you would award on the line below.
Scenario BT

Recipient: GOVERNMENT
Pain and Suffering: LOW
Profit Information: GIVEN

Brian Tanner was seriously injured when his power drill malfunctioned. The drill was manufactured by Milwaukee Company. Brian was standing on a properly installed scaffold drilling into the ceiling of a sports facility that his employer, a construction company, was building. The drill bit became lodged and the drill itself began to spin backward powerfully. Brian was holding the drill, and at that point he lost his balance and fell 17 feet to the auditorium floor, fracturing his lower vertebrae. As a result, he has permanent lower body paralysis and is confined to a wheelchair.

Brian is 32 years old and had worked in construction since he was 18. He had been with the present company for 10 years and was promoted to foreman 2 months prior to the accident. He was on the scaffolding that day because one of the regular workers who would have been doing this task had called in sick. Brian was always the kind of guy who would pitch in and help where needed. Due to the accident he can no longer work in the construction industry. He is married with two children, a girl age 9 and a boy age 7.

As a result of the accident and injuries Brian filed a lawsuit against Milwaukee Company contending that design and marketing defects in the drill caused it to fail, which in turn caused the accident and injuries. Evidence presented at the trial included the following:

1. The drill was manufactured in December of 1999 by Milwaukee Co. Milwaukee Co. recommended that only experienced contractors should use this product. In the first 12 months after this model of the drill was introduced, there were over 180 accidents caused by the drill bit becoming lodged, all involving experienced contractors. After-market tests revealed the drill bit is 30 times more likely to become lodged than other power drills.

2. An engineering expert testified that a series of tests revealed that the design of the drill was faulty. When used to drill into certain types of materials, the drill bit would lockup and the drill itself would spin with great force. Further, this problem could occur when drilling into materials for which the drill was supposedly appropriate.

3. Documents made available at trial indicated that this is the most powerful drill on the market and there had been a very profitable market for it. Milwaukee Co.’s executives decided to continue to sell the product despite its accident history. Settling lawsuits involving injuries due to drill bit malfunction was
deemed to be more cost effective than discontinuing the drill or recalling it for modification.

4. An internal communication was also presented at the trial detailing the company's decision not to include warning material pertaining to the propensity of the drill to get lodged if used in certain types of materials. The lack of warnings is considered a marketing defect. The added cost of including a warning would be negligible, but there was concern that it would unnecessarily alarm the consumer. A Milwaukee executive stated, "The presence of a warning could hinder the phenomenal sales of our most profitable product to date."

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In determining the liability (fault), the jury decided that Milwaukee Company was 100% responsible. The jury awarded Brian $2,950,000 for economic damages.

The plaintiffs (Brian and his family) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium with his wife (such as sexual interaction), limitations on the types of interactions he can have with his children and future grandchildren, inability to engage in many activities he previously enjoyed, and a loss of self-esteem. The jury awarded Brian and his family $900,000 for pain and suffering.

This means Brian and his family will receive a total compensatory award of $3,850,000.

A third and last award decision the jury has to make concerns punitive damages. Brian and his family contend that Milwaukee Company should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that Milwaukee Company knew about the safety problem, had available a design solution that could have been implemented by recalling and fixing the drill or by offering a properly designed replacement. Also, it could have provided a good warning with the drill, which would have enabled customers to avoid unsafe applications. They further contend that the
manufacturer rejected these solutions because of greater short-term profits and a lack of concern for user safety. Financial records of the company introduced in the trial indicate a profit of a little over $5,000,000 from the sale of this drill in the two years since its introduction.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund that must be used for research on public safety and health issues. The fund is administered by a board appointed by the Governor.

Write what you would award on the line below.
Scenario SM

Recipient: GOVERNMENT
Pain and Suffering: LOW
Profit Information: GIVEN

Last summer Sally Morris, suffered burns over 65% of her body due to a fire at the Mountain Lake Resort Hotel. The fire began in the electrical room; specifically, a breaker in the Theft Prevention alarm system box overloaded and caught fire. The fire quickly spread throughout the lobby. The smoke and heat detectors, which were designed, sold, installed and maintained by Safety Alarm Corporation (SAC), did not respond. Consequently, the sound alarm and sprinkler system (also designed, sold, installed and maintained by SAC) were not engaged. Sally was on the 5th floor, oblivious to the fire, as the alarm was not activated. She got on the elevator, which was still functioning, to go to the lobby to checkout. When the doors opened, she was engulfed in flames.

Sally, 25 years old, was on a couple’s retreat with her husband and her brother and sister-in-law. She had gone down to the lobby to check out for both rooms while her companions stayed behind to finish packing. As a result of the accident Sally was in a burn center for two months, and she has undergone numerous surgeries and 17 skin grafts.

SAC and the Venetian Hotel Group (owner of the Mountain Lake Resort Hotel in question) had recently begun negotiations to renew their contract. During negotiations, SAC suspended maintenance and monitoring service to all member hotels in that chain. SAC, however, did not notify the Hotel Group or the member hotels that these services were not being performed.

As a result of the accident and injuries Sally filed a lawsuit against SAC contending that their policy to suspend the critical hotel fire safety service was irresponsible and resulted in the fire spreading which in turn caused her injuries. Evidence presented at the trial included the following:

1. Medical testimony indicated that despite skin grafting, Sally would continue to have facial scars. Also, she would experience some moderate levels of pain, particularly associated with certain body movements. Consequently, her physical activities would be permanently curtailed. She was also strongly advised against having children.

2. Sally had been a well-paid model for a major department store chain for the past 4 years. Due to the scaring and limitations on physical movement, she will not be able to continue in that profession.
3. Sally's former employer testified that she was regarded as one of their best models and that her prospects to achieve success and high income as a model were excellent.

4. Sally had two years of college before becoming a model. She was slightly above average as a student. A vocational expert testified that if she completed a college degree, she would definitely be employable, but that her expected income potential would not approach what would have been expected from a successful modeling career.

5. SAC claimed that its suspension of services to the hotel group was unintended and the result of misunderstandings. During the trial, however, several present and past employees of SAC testified that it was an unwritten policy of SAC to actively terminate service calls, including system maintenance, to any corporate client when contract negotiations were taking place, though the contracts had actually not expired. Such measures cut costs, since equipment upgrades were required at these maintenance calls, as was the case at the Venetian resort.

6. Testimony at the trial revealed that while SAC and the Venetian Group were negotiating a renewal of their contract at the time of the fire, the current contract had not yet expired. In other words, at the time of the fire SAC was violating the existing contract by not providing the fire alarm system service.

7. An expert on hotel fire alarm systems testified that an analysis and reconstruction of the fire incident revealed that the failure of the system was the result of a damaged detector in the area where the fire originated. Further, the normal maintenance schedule would have resulted in this detector being inspected two days before the fire. Had the detector been replaced and functioned, the fire would have been detected much earlier, the alarm system would have sounded, and the sprinkler system in the fire area would have been activated and contained the spread of the fire. Further, Sally's injuries would have been prevented.

8. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:
   
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Past and future medical costs and care</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>Past and future lost wages</td>
<td>800,000</td>
</tr>
<tr>
<td>Other economic considerations, such as</td>
<td>300,000</td>
</tr>
<tr>
<td>hiring people to do things that Sally did</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$2,200,000</td>
</tr>
</tbody>
</table>

In determining the liability (fault), the jury decided that SAC was 100% responsible. The jury awarded Sally $2,200,000 for economic damages.
The plaintiffs (Sally and her husband) also sued for pain and suffering damages. This category includes physical pain, the loss of consortium (such as limited sexual interaction), inability to engage in many activities she previously enjoyed, and a loss of self-esteem. The jury awarded Sally and her husband $237,500 for pain and suffering.

This means Sally and her family will receive a total compensatory award of $2,437,500.

A third and last award decision the jury has to make concerns punitive damages. Sally and her husband contend that SAC should be punished as a result of their "conscious disregard" (a legal term) for their customers' safety. The plaintiff's argument is that SAC not only violated a contract, but knew that their failure to carry out inspections and maintenance of the hotel fire detection and alarm system could cause not only substantial property damage as occurred in the hotel, but catastrophic injuries or deaths as well. SAC's financial records indicated that for the previous year the company had over $10,000,000 in profits from the fire alarm portion of their business.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund to support research in the area of public safety and health. It is administered by a panel appointed by the Governor.

Write what you would award on the line below.
Scenario JF

Recipient: GOVERNMENT
Pain and Suffering: LOW
Profit Information: GIVEN

Jacob Foley was badly injured while driving his mini van on a four-lane highway, two lanes in each direction. He and his brother Peter had been visiting their mother who lived alone since the death of their father 18 months earlier. It was approximately 9:30 p.m., and Jacob was going to drop Peter off at his house and continue to his own home. A semi truck crossed the median into oncoming traffic and crashed into the left front of Jacob’s vehicle.

Jacob suffered serious head and arm injuries. Peter was sitting in the right front passenger seat and was not seriously injured. He was able to give an account of the events of the accident. He reported that Jacob was driving under the posted 55-mph speed limit and had not been drinking. Jacob was in the left lane and was unable to avoid the truck because there was another car in the right lane.

The driver of the semi, Robert Branch, had been a truck driver for 5 years. He fell asleep at the wheel for only a moment but did not recover in time to regain control of the vehicle.

As a result of the accident and injuries, Jacob filed a lawsuit against MG Shipping, the owner of the semi truck and Robert Branch’s employer. Evidence presented at the trial included the following:

1. Jacob was 29 years old at the time of the accident. He was married and had one child, a four-year old boy. He had a B.S. degree in mechanical engineering and an MBA, both from the University of Michigan. He was employed in the marketing division of Ford Motor Company.

2. Jacob’s head injuries resulted in some brain damage that in turn resulted in deficits in reasoning ability and speech. He also suffered significant hearing loss and facial scarring. His left hand and arm were crushed, resulting in the amputation of the arm six inches above the elbow. He spent over 5 weeks in the hospital following the accident, and he will require therapy indefinitely.

3. A vocational analysis expert testified that while Jacob might eventually be employable at a low to moderate income level of work, he is not expected to be able to function in the kind of job he had at Ford.

4. An accident reconstruction expert confirmed that Jacob was driving approximately 52 miles per hour. Both Jacob and Peter were properly wearing their seat belts. Results of the blood analysis indicated Jacob had not been drinking or using any drugs or medications.
5. MG Shipping, the owner of the semi, operated a fleet of 11 trucks that dealt mostly in middle range (less than 200 miles) transport of heavy equipment. For profit reasons, they had adopted a policy six months prior to the accident that encouraged driving for long periods of time and skipping breaks. Their policies included incentives based on number of deliveries. Also, if drivers failed to meet delivery goals, they could be reprimanded, given poor performance appraisals, and eventually fired for unsatisfactory performance.

6. The truck driver, Robert Branch, had been awake for 22 consecutive hours prior to the accident. Twenty of these hours were spent on the road with breaks only to refuel and drop off his loads.

7. On four separate occasions during the year prior to this accident, drivers for MG Shipping had been cited by various highway authorities for violating regulations related to limits on consecutive driving hours. MG Shipping was aware of these citations and reimbursed the drivers for the fines; however, they did not change the incentive policies. Also, two drivers during the one-year period had been involved in minor accidents where the probable cause had been falling asleep at the wheel. Again, MG Shipping was aware of these incidents.

8. Four days before this accident Robert Branch, the truck driver, had been told by his supervisor at MG Shipping that his delivery performance had been unsatisfactory. Specifically, he was told that if he did not deliver more loads he would be terminated. This information was written in his performance appraisal, which was included in the records presented at trial.

9. An expert economist evaluated the economic damages in the case and presented (testified to) the following information:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Past and future medical costs and care</td>
<td>$2,100,000</td>
</tr>
<tr>
<td>Past and future net lost wages</td>
<td>2,600,000</td>
</tr>
<tr>
<td>Other economic considerations, such as hiring</td>
<td>1,550,000</td>
</tr>
<tr>
<td>people to do things that Jacob does</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$6,250,000</strong></td>
</tr>
</tbody>
</table>

In determining the liability (fault), the jury decided that MG Shipping was 100% responsible. The jury awarded Jacob $6,250,000 for economic damages.

The plaintiffs, Jacob and his family, also sued for pain and suffering damages. This category includes physical pain, the loss of consortium between Jacob and his wife (such as sexual interaction), limitations on the types of interactions he can have with his child and his inability to engage in many activities he previously enjoyed. The jury awarded $650,000 for pain and suffering.
This means Jacob and his family will receive a total compensatory award of $6,850,000.

A third and last award decision the jury has to make concerns punitive damages. Jacob and his family contend that MG Shipping should be punished as a result of their “conscious disregard” (a legal term) for safety. The plaintiff’s argument is that MG Shipping knew about the hazards associated with their employees driving excessive numbers of consecutive hours with too little rest. They were also accused of being aware that in many instances drivers were violating highway regulations. It was further pointed out that despite this knowledge, MG Shipping continued their policies, which encouraged dangerous practices such as those that resulted in Jacob Foley’s injuries. MG Shipping’s financial records indicate that profits have increased from $900,000 two years ago, before implementing their questionable policy, to $3,500,000 last year.

The jury must now decide whether to award punitive damages, and if, so how much. In the state where the trial is being held, punitive damages go to a fund for basic research and education on public safety. The fund is administered by a panel appointed by the Governor.

Write what you would award on the line below.
Appendix C

Demographic Information & Attitude Survey

Please indicate the following demographic information on the lines below.

**Age**

**Gender** (circle one)  
M  
F

**Race** (circle one, or two if biracial)  
White  
Black  
Hispanic  
Asian-American  
Other

**Major**

**Approximate family income** last year (circle one)

<table>
<thead>
<tr>
<th>Income Level</th>
<th>Under $20,000</th>
<th>$20,000-39,999</th>
<th>$40,000-59,999</th>
<th>$60,000-79,999</th>
<th>$80,000-99,999</th>
<th>Over $100,000</th>
</tr>
</thead>
</table>

**Political Affiliation**

1---------2---------3---------4---------5---------6---------7
Conservative  
Moderate  
Liberal

Please rate how much you agree with the following statements.

**Most of the time, people are just looking to get rich when they sue a company.**

1---------2---------3---------4---------5---------6---------7
Completely Disagree  
Neutral  
Completely Agree

**Are most corporations that manufacture and market products primarily concerned with profit, or are they primarily concerned with consumer safety?**
People are entitled to sue when they feel that they have been wronged.

Although a person’s pain and suffering is scientifically impossible to measure, it is acceptable for the plaintiff’s attorney to request an award amount.

Juries make responsible decisions.

Companies should be fined, or assessed punitive damages, when they are especially irresponsible or underhanded.

There should be some predetermined minimum amount of monetary loss incurred before someone is allowed to sue.

Countless dollars are wasted each year on frivolous lawsuits.
Disagree Agree

Judges, not juries, should decide the amount of money appropriate to compensate the plaintiff for their losses.

1---------2---------3---------4---------5---------6---------7
Never Sometimes Always

If the jury decides that punitive damages should be awarded, the money should not go to the plaintiff.

1---------2---------3---------4---------5---------6---------7
Completely Neutral Completely
Disagree Agree

Other than economic losses, the plaintiff should not request any other compensation from the defendant (i.e. pain and suffering).

1---------2---------3---------4---------5---------6---------7
Completely Neutral Completely
Disagree Agree

Juries in this country are out of control.

1---------2---------3---------4---------5---------6---------7
Completely Neutral Completely
Disagree Agree

There should be a limit on the amount of punitive damages a jury is allowed to award.

1---------2---------3---------4---------5---------6---------7
Across all Dependant Never
Cases on the Case

If there were no punitive damages, companies would do whatever they wanted, regardless of the consequences.

1---------2---------3---------4---------5---------6---------7
Completely Neutral Completely
Disagree

Agree

There should be a limit on the amount of *pain and suffering* a jury is allowed to award.

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Across all Cases</td>
<td>Dependant on the Case</td>
<td>Never</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The judicial system in this country needs to be reigned in with stringent legislation.

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completely Disagree</td>
<td>Neutral</td>
<td>Completely Agree</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Appendix D

Global Belief in a Just World Scale & Manipulation Checks

In the blanks following each statement, please indicate whether you agree or disagree with the statements according to the following scale:

1--------2--------3--------4--------5--------6
Strongly Disagree
Strongly Agree

1. I feel that people get what they are entitled to have. _________
2. I feel that a person’s efforts are noticed and rewarded. _________
3. I feel that people earn the rewards and punishments they get. _________
4. I feel that people who meet with misfortune have brought it on themselves. _________
5. I feel that people get what they deserve. _________
6. I feel that rewards and punishments are fairly given. _________
7. I basically feel that the world is a fair place. _________

Now, please consider the decisions you were asked to make earlier regarding the amounts of punitive damages. Please circle the statement that most identifies your strategy in determining the amount of punitive damages you awarded.

For the first case,
I was **primarily** concerned with compensating the plaintiff.

I was **primarily** concerned with punishing the defendant.

I was **primarily** concerned with setting an example for other companies.

I was **equally** concerned with punishing the defendant and setting an example for other companies, without considering how much money the plaintiff was getting.

I was **equally** concerned with compensating the plaintiff, punishing the defendant, and setting an example for other companies.
Who received the money in the first case? 

For the second case,
I was **primarily** concerned with compensating the plaintiff.
I was **primarily** concerned with punishing the defendant.
I was **primarily** concerned with setting an example for other companies.
I was **equally** concerned with punishing the defendant and setting an example for other companies, without considering how much money the plaintiff was getting.
I was **equally** concerned with compensating the plaintiff, punishing the defendant, and setting an example for other companies.

Who received the money in the second case? 

For the third (last) case,
I was **primarily** concerned with compensating the plaintiff.
I was **primarily** concerned with punishing the defendant.
I was **primarily** concerned with setting an example for other companies.
I was **equally** concerned with punishing the defendant and setting an example for other companies, without considering how much money the plaintiff was getting.
I was **equally** concerned with compensating the plaintiff, punishing the defendant, and setting an example for other companies.

Who received the money in the third (last) case? 

<table>
<thead>
<tr>
<th>Statement</th>
<th>Mean</th>
<th>Std. Dev.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Most of the time, people are just looking to get rich when they sue a company.</td>
<td>4.00</td>
<td>1.21</td>
</tr>
<tr>
<td>Are most corporations that manufacture and market products primarily concerned with profit, or are they primarily concerned with consumer safety?</td>
<td>5.29</td>
<td>.89</td>
</tr>
<tr>
<td>People are entitled to sue when they feel that they have been wronged.</td>
<td>5.53</td>
<td>1.39</td>
</tr>
<tr>
<td>Although a person’s pain and suffering is scientifically impossible to measure, it is acceptable for the plaintiff’s attorney to request an award amount.</td>
<td>5.75</td>
<td>1.15</td>
</tr>
<tr>
<td>Juries make responsible decisions.</td>
<td>4.50</td>
<td>.94</td>
</tr>
<tr>
<td>Companies should be fined, or assessed punitive damages, when they are especially irresponsible or underhanded.</td>
<td>6.31</td>
<td>.96</td>
</tr>
<tr>
<td>There should be some predetermined minimum amount of monetary loss incurred before someone is allowed to sue.</td>
<td>3.69</td>
<td>1.65</td>
</tr>
<tr>
<td>Countless dollars are wasted each year on frivolous lawsuits.</td>
<td>5.28</td>
<td>1.38</td>
</tr>
<tr>
<td>Judges, not juries, should decide the amount of money appropriate to compensate the plaintiff for their losses.</td>
<td>3.91</td>
<td>1.36</td>
</tr>
<tr>
<td>If the jury decides that punitive damages should be awarded, the money should not go to the plaintiff.</td>
<td>3.90</td>
<td>1.85</td>
</tr>
<tr>
<td>Other than economic losses, the plaintiff should not request any other compensation from the defendant (i.e. pain and suffering).</td>
<td>2.28</td>
<td>1.38</td>
</tr>
<tr>
<td>Juries in this country are out of control.</td>
<td>3.07</td>
<td>1.30</td>
</tr>
<tr>
<td>There should be a limit on the amount of punitive damages a jury is allowed to award.</td>
<td>4.14</td>
<td>.94</td>
</tr>
<tr>
<td>If there were no punitive damages, companies would do whatever they wanted, regardless of the consequences.</td>
<td>4.99</td>
<td>1.62</td>
</tr>
<tr>
<td>There should be a limit on the amount of pain and suffering a jury is allowed to award.</td>
<td>4.29</td>
<td>1.30</td>
</tr>
<tr>
<td>The judicial system in this country needs to be reigned in with stringent legislation.</td>
<td>4.00</td>
<td>1.23</td>
</tr>
</tbody>
</table>