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Punitive Damages

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PUNITIVE DAMAGES—The Supreme Court of Pennsylvania has held that punitive damages do not have to bear a reasonable relationship to compensatory damages.

Kirkbride v. Lisbon Contractors, Inc., 521 Pa. 97, 555 A.2d 800 (1989).

In 1978, Lisbon Contractors, Inc., (hereinafter “Lisbon”), was in the process of installing a sewer line and bike path for the Uwchlan Township Municipal Authority of Chester County.¹ During the course of the installation, a bulldozer being used by Lisbon made a clearing of approximately 1,200 feet, which was used for storage, on wooded property owned by Edward and Carole Kirkbride, (hereinafter “the Kirkbrides”).² In June of 1987, the Kirkbrides brought a trespass action against Lisbon in the Court of Common Pleas of Chester County to recover for the damages sustained to their property.³ At the conclusion of the trial, the judge instructed the jury that the amount assessed as punitive damages did not have to bear any relationship to the amount awarded as compensatory damages and that the awarding of compensatory damages was not a necessity for the awarding of punitive damages.⁴ After deliberation, the jury returned a verdict of \$7,000 in compensatory damages and \$70,000 in punitive damages.⁵ Upon

1. *Kirkbride v. Lisbon Contractors, Inc.*, 357 Pa. Super. 322, 516 A.2d 1, 2 (1986).

2. 516 A.2d at 2.

3. *Id.* at 1.

4. *Id.* The trial court followed the Pennsylvania Suggested Standard Jury instructions (Civil) § 14.02, Subcommittee Draft (September 26, 1976), which were also given by the trial court in *Rhoads v. Heberling*, 306 Pa. Super. 35, 451 A.2d 1378 (1982). *Id.* at 2. The instructions read as follows:

If you decide that the plaintiff is entitled to an award of punitive damages, the amount of such damages must be fixed by you. In doing so you may consider any or all of the following factors: (1) the character of the defendant's act, (2) the nature and extent of the harm to the plaintiff which the defendant caused or intended to cause [in this regard you may include the plaintiff's trouble and expense in seeking to protect his interests in legal proceedings and in this suit] (3) the wealth of the defendant insofar as it is relevant in fixing an amount which will punish him (it), and deter him (it) and others from like conduct in the future. [The amount you assess as punitive damages need not bear any relationship to the amount you choose to award as compensatory damages, and] it is not necessary that you award compensatory damages to the plaintiff in order to assess punitive damages against the defendant so long as you find in favor of the plaintiff on the question of liability.

Rhoads, 451 A.2d at 1380 n.1.

5. *Kirkbride v. Lisbon Contractors, Inc.*, 521 Pa. 97, 555 A.2d 800 (1989). The Kirk-

post-trial motions being denied, Lisbon appealed to the Superior Court of Pennsylvania.⁶

The Superior Court reversed, holding that the trial court erred in not instructing the jury that punitive damages must be reasonable and not disproportionate to compensatory damages.⁷ The Supreme Court of Pennsylvania granted a petition for allowance of appeal.⁸

The issue before the Supreme Court of Pennsylvania was whether punitive damages must bear a reasonable relationship to compensatory damages.⁹ In the majority opinion,¹⁰ written by Justice Zappala, the Court held that because punitive damages need not bear a reasonable relationship to compensatory damages, the trial court properly instructed the jury.¹¹

Justice Zappala began his analysis by stating that because the Supreme Court of Pennsylvania misconstrued Comment (e) of Section 908 of the Restatement of Torts when it ruled in *Hughes v. Babcock*,¹² that punitive damages must be proportional to compensatory damages, the *Hughes* decision was not controlling.¹³ Justice Zappala further stated that cases subsequent to *Hughes* must be evaluated to determine the viability of the reasonable relationship theory of punitive damages.¹⁴

To begin this evaluation, the Court explained its decision in *Hil-*

brides recovered a second verdict of \$12,000 for damage also done by Lisbon to an embankment. This second verdict was not at issue. *Id.* at 801 n.1.

6. *Id.* at 801.

7. *Id.* See *Kirkbride v. Lisbon Contractors, Inc.*, 357 Pa. Super. 322, 516 A.2d 1 (1986). For the holding in this case, the Superior Court relied upon an earlier line of cases from the Pennsylvania Supreme Court, the most recent of which was *Hughes v. Babcock*, 349 Pa. 475, 37 A.2d 551 (1944). The Superior Court reasoned that since this line of cases was not overruled and since it was most recently followed in *Martin v. Johns-Manville Corp.*, 508 Pa. 154, 494 A.2d 1088 (1985), the reasonable relationship requirement was still viable. *Kirkbride*, 555 A.2d at 801.

8. *Id.*

9. *Id.*

10. *Id.* Justice Zappala's majority opinion was joined by Justices Nix, Larsen, McDermott, Papadakos and Stout. *Id.* Justice Flaherty filed a dissenting opinion. *Id.* at 804.

11. *Id.* at 803.

12. 349 Pa. 475, 37 A.2d 551 (1944).

13. *Kirkbride*, 555 A.2d at 802. Comment (e) to Section 908 of the Restatement of Torts states that

. . . [t]he wealth of the defendant is also relevant, since the purposes of exemplary damages are to punish for a past event and to prevent future offenses, and the degree of punishment or deterrence resulting from a judgement is to some extent in proportion to the means of the guilty person.

RESTATEMENT OF TORTS § 908, comment (e) (1939).

14. 555 A.2d at 802.

bert v. Roth,¹⁵ which held that an award of punitive damages was not appropriate if actual damages had not been suffered.¹⁶ In explaining this case, Justice Zappala noted that the plaintiff attempted to pursue an independent cause of action for punitive damages because the cause of action for compensatory damages had been dismissed.¹⁷ In light of the nature of the *Hilbert* case, Justice Zappala emphasized the essence of the holding to be that punitive damages are an element of damages arising out of the initial cause of action, and if that cause of action is dismissed, the punitive damages which are incident to the actual damages cannot stand.¹⁸ To further reinforce and explain this holding, Justice Zappala cited *Rhoads v. Heberling*,¹⁹ and *Laniecki v. Polish Army Veterans Ass'n*,²⁰ two Superior Court cases that the Justice believed properly reflected and applied the *Hilbert* decision.²¹

The Court then discussed two of its own recent decisions, decisions that involved an assessment of the nature of punitive damages.²² In *Feld v. Merriam*,²³ the Court adopted Section 908(2) of the Restatement (Second) of Torts, which, as Justice Zappala

15. 395 Pa. 270, 149 A.2d 648 (1959).

16. *Id.* In *Hilbert*, the plaintiff-decedent died as a result of an automobile accident which involved Dale Rutz and Frederick Roth, both of whom were drag racing at the time. Initially, the plaintiff sued the Rutz estate for compensatory damages and also sued Roth for compensatory and punitive damages. A joint trial was held, and the trial court granted withdrawal of a juror as to Roth because of the awkwardness of the application of the dead man's rule only to the Rutz case. The trial proceeded against the Rutz estate and resulted in a verdict of \$10,000 for the plaintiff. Judgement was entered and satisfied. Defendant Roth then petitioned the court to discontinue the action as to him because judgement had been satisfied in the case. The petition was granted and on appeal the Supreme Court of Pennsylvania affirmed. *Id.*

17. *Kirkbride*, 555 A.2d at 802.

18. *Id.*

19. 306 Pa. Super. 35, 451 A.2d 1378 (1982). In *Rhoads*, the defendant appealed from a judgement of the Court of Common Pleas against defendant who intentionally fired eight bullets from a semiautomatic rifle into an automobile occupied by the four plaintiffs. In affirming, the Superior Court of Pennsylvania held that: 1) if the facts state a cause of action, punitive damages may be awarded even though compensatory damages are not and 2) that the amount of punitive damages need not bear any relationship to the amount awarded as compensatory damages. *Id.*

20. 331 Pa. Super. 413, 480 A.2d 1101 (1984). In *Laniecki*, plaintiff brought a trespass action for libel against a veterans association and its commander. The jury found that the plaintiff had been libelled but, while awarding \$5,000 in punitive damages, the jury granted no compensatory damages. On appeal, the Superior Court of Pennsylvania affirmed by holding that the punitive damages award in the absence of compensatory damages was warranted. *Id.* at 1103.

21. 555 A.2d at 802.

22. *Id.* at 803.

23. 506 Pa. 383, 485 A.2d 742 (1984).

noted, made no reference to any requirement that punitive damages be proportional to compensatory damages.²⁴ Justice Zappala also distinguished *Martin v. Johns-Manville Corp.*,²⁵ a case that the Superior Court cited in support of the reasonable relationship requirement when it reversed the trial court's holding for the Kirkbrides.²⁶ In distinguishing the *Martin* decision, Justice Zappala concluded that because the basis for the decision stemmed from "products liability litigation as an attempt to prevent a single plaintiff from receiving punitive damages owed to all consumers as the result of a defendant's decision to place a defective product on the market," any reliance placed on *Martin* in the present case would be improper.²⁷

In addition to his evaluation of prior case law, Justice Zappala discussed the purpose of punitive damages as a deterrent.²⁸ In so doing, Justice Zappala stated that if the amount of punitive damages must bear a reasonable relationship to the injury suffered, then those damages probably would not serve as a deterrent.²⁹

24. *Kirkbride*, 555 A.2d at 747. Section 908(2) of the Restatement (Second) of Torts states that:

Punitive damages may be awarded for conduct that is outrageous, because of the defendant's evil motive or his reckless indifference to the rights of others. In assessing punitive damages, the trier of fact can properly consider the character of the defendant's act, the nature and extent of the harm to the plaintiff that the defendant caused or intended to cause and the wealth of the defendant.

RESTATEMENT(SECOND) OF TORTS § 908(2) (1977).

25. 508 Pa. 154, 494 A.2d 1088 (1985). This case involved a trespass action brought by an insulation worker seeking compensatory and punitive damages for asbestosis and related diseases which he claimed he developed as a result of working with products containing asbestos manufactured by defendant. A jury returned a verdict in the plaintiff's favor, awarding him \$67,000 in compensatory damages. In an attempt to obtain punitive damages, plaintiff motioned for a new trial. The motion was denied and the plaintiff appealed to the Superior Court on several grounds. The Superior Court reversed and remanded for a new trial limited to the issue of damages. On appeal, the Supreme Court of Pennsylvania vacated the order of the Superior Court but remanded to the Superior Court for its determination as to an issue not addressed in the previous appeal because of the disposition of other issues. In dicta, the Supreme Court stated: 1) In order to recover punitive damages, the plaintiff must first prove actual compensatory damages, and 2) that punitive damages must bear a reasonable relationship to compensatory damages. *Id.*

26. *Kirkbride*, 555 A.2d at 803.

27. *Id.* In *Martin*, the court wanted to prevent multiple recovery at the defendant-seller's expense by ensuring that the plaintiff collected only his proportion of the punitive damages which the defendant owed to all of the purchasers and consumers of its products. *Martin*, 494 A.2d at 1099.

28. 555 A.2d at 803.

29. *Id.* In support of this statement, Justice Zappala used the example whereby outrageous conduct only resulted in nominal damages, thus resulting in small punitive damages if the reasonable relationship requirement were in effect. He reasoned that if the resulting punishment was relatively small when compared to the potential reward of the conduct, it

Finally, Justice Zappala stated that the Court is cognizant that at some point the amount of punitive damages may be so disproportionate when compared to the character of the act, the nature and extent of the harm and the wealth of the defendant, that it will shock the Court's sense of justice.³⁰ In such a situation, the Court is given discretion to remit the damages to a more reasonable amount.³¹

Justice Flaherty, in a short dissenting opinion, stated that the court had always held that punitive damages must bear a reasonable relationship to compensatory damages and that he perceived no reason to depart from that requirement.³² The Justice contended that by requiring a reasonable relationship between punitive and compensatory damage awards, appellate courts are afforded a standard by which to review punitive damage awards.³³ Justice Flaherty also stated that the primary purpose of civil damages was to compensate an injured party rather than to punish the wrongdoer, which was reserved for the criminal law.³⁴ Finally, he considered punitive damage awards that had no reasonable relationship to the harm suffered to be per se shocking to the traditionally felt sense of justice.³⁵

An examination of the origin and evolution of punitive damages involves a discussion that is both extensive and lengthy.³⁶ Such a discussion would add little to the analysis and understanding of the *Kirkbride* decision. However, a more limited review, one involving the origin and development of the reasonable relationship requirement in Pennsylvania, is warranted.

When torts are committed willfully, maliciously, or so negligently as to indicate a wanton disregard of the rights of others,

might then be feasible for a tortfeasor to attempt the same outrageous conduct a second time. *Id.*

30. *Id.* at 803-04.

31. *Id.* In support of this discretion to remit the damages, the Court cited *Sulecki v. Southeast National Bank*, 358 Pa. Super. 132, 516 A.2d 1217 (1986) (Olszewski, J., concurring). *Id.*

32. *Id.* In support of this contention, Justice Flaherty cited the following cases without explanation: *Martin v. Johns-Mansville Corp.*, 508 Pa. 154, 494 A.2d 1088 (1985); *Hughes v. Babcock*, 349 Pa. 475, 37 A.2d 551 (1944); *Givens v. W. J. Gilmore Drug Co.*, 337 Pa. 278, 10 A.2d 12 (1940); *Thompson v. Swank*, 317 Pa. 158, 176 A. 211 (1934); *Mitchell v. Randal*, 288 Pa. 518, 137 A. 171 (1927). *Id.*

33. 555 A.2d at 804.

34. *Id.*

35. *Id.*

36. For further discussion involving the history of punitive damages see: Sales and Cole, *Punitive Damages: A Relic That Has Outlived Its Origins*, 37 VAND. L. REV. 1117 (1984).

punitive damages may be awarded.³⁷ In an attempt to establish a rule for determining the proper amount of punitive damages, the Supreme Court of Pennsylvania, in *Rider v. York Haven Water & Power Co.*,³⁸ first introduced the reasonable relationship requirement to Pennsylvania. In *Rider*, the Supreme Court of Pennsylvania quoted and adopted the views expressed by the Supreme Court of Kentucky, which, in a then recent decision, stated:

We know no general rule upon the subject of awarding punitive damages, except that the damages must not be so excessive as to indicate that the jury was influenced by passion or prejudice, and must have some reasonable relation to the injury and cause of it, and must not be disproportionate to the one or the other.³⁹

After the *Rider* decision, the Pennsylvania Supreme Court, in an ensuing line of cases, applied and further reinforced the reasonable relationship requirement.⁴⁰ Accordingly, the prevailing rule became that punitive damages had to be proportionate to compensatory damages.⁴¹ The most recent application of this rule by the Pennsylvania Supreme Court was in *Martin v. Johns-Mansville Corp.*,⁴² where the Court cited *Hughes v. Babcock*, the most current of the line of cases that developed as an offspring to the *Rider* decision.⁴³

It is this previously uncontroverted line of cases and the decision in *Martin* that Justice Flaherty cited as being simply dispositive of the issue in *Kirkbride*.⁴⁴ However, the majority, speaking through Justice Zappala, deemed it appropriate to overrule approximately 75 years of well established precedent.⁴⁵ In so doing, the majority focused its discussion on the *Hughes* decision.⁴⁶

Essentially the Majority disposed of this prior case law by stat-

37. This general rule has remained unchanged in Pennsylvania case law since it was first expressed in early Pennsylvania Supreme Court decisions. See *Pittsburgh, C. & St. L. Ry. Co. v. Lyon*, 123 Pa. 140, 16 A. 607, 609 (1889).

38. 251 Pa. 18, 95 A. 803 (1915).

39. 95 A. at 806. See *Buford V. Hopewell*, 140 Ky. 666, 131 S.W. 502 (1910).

40. See *Mitchell v. Randal*, 288 Pa. 518, 137 A. 171 (1927); *Thompson v. Swank*, 317 Pa. 158, 176 A. 211 (1934); *Givens v. W. J. Gilmore Drug Co.*, 337 Pa. 278, 10 A.2d 12 (1940); *Hughes v. Babcock*, 349 Pa. 475, 37 A.2d 551 (1944). Although the specific fact pattern in each of these cases is varied, in each case, the Supreme Court of Pennsylvania cited either *Rider*, or one of these previous cases which cited *Rider*, or both, in advancing the general rule that punitive damages had to be proportionate to compensatory damages.

41. See *supra*, note 40. Each case in note 40 can be cited as advancing this rule.

42. See *supra*, note 25, for the facts of this case..

43. *Martin*, 494 A.2d at 1098.

44. 555 A.2d at 804.

45. 555 A.2d at 803.

46. *Id.* at 801-802.

ing that the Court in *Hughes* made a mistake in reading the Restatement of Torts.⁴⁷ While Comment (e) to Section 908 of the Restatement speaks of proportionality with regard to the means or wealth of the guilty person,⁴⁸ the Majority in *Kirkbride* perceived that the Court in *Hughes* misconstrued this proportionality to be between compensatory and punitive damages.⁴⁹ However, upon review of the *Hughes* decision this mistake is not apparent.⁵⁰ Further, the reasonable relationship requirement as expressed in *Hughes* was in no way derived, established or expanded from an analysis involving the Restatement.⁵¹ Rather, the requirement of proportionality as used in *Hughes* was merely cited as law from previous cases.⁵² Thus, by focusing its discussion on only the *Hughes* decision, the Court refused to acknowledge and discuss the previous cases that advanced and established the reasonable relationship requirement.⁵³

After determining that *Hughes* was invalid, and in so doing, also discrediting all previous case law, Justice Zappala concluded that cases subsequent to *Hughes* must be evaluated to assess the viability of the reasonable relationship theory of punitive damages.⁵⁴ This evaluation began with a discussion of the decision in *Hilbert v. Roth*.⁵⁵ In *Hilbert*, the Supreme Court of Pennsylvania stated that "It is well recognized that no award for punitive damages may be made where actual damages have not been suffered."⁵⁶ The *Hil-*

47. *Id.* at 802. After citing *Thompson v. Swank*, 317 Pa. 158, 176 A. 211 (1934), and *Mitchell v. Randal*, 288 Pa. 518, 137 A. 171 (1927), to support the contention that exemplary damages must not be disproportionate to compensatory damages, the court in *Hughes* then stated: "Moreover, in determining the amount of punitive damages, not merely the act must be considered, but all the surrounding circumstances, including the motives of the wrongdoer, and the relations between the parties." In support of this statement, the court cited the Restatement of Torts § 908, Comment (e). *Hughes*, 37 A.2d at 554. Because this was the only use of § 908 Comment (e), it is hard to see how this section of the Restatement could be seen as supporting or advancing the reasonable relationship requirement.

48. *See supra*, note 13 for the text of Comment (e).

49. 555 A.2d at 802.

50. *See supra*, note 47.

51. *See supra*, note 47.

52. *See supra*, note 47.

53. Justice Zappala determined that *Hughes* was not controlling, however he did not address any other cases. 555 A.2d at 802. *See supra*, note 32 for a list of cases that both the Superior Court and Justice Flaherty cited as controlling.

54. 555 A.2d at 802.

55. 395 Pa. 270, 149 A.2d 648 (1959). *See supra*, note 16 for the facts of this case.

56. *Hilbert*, 149 A.2d at 652. In support of this statement, the Court cited *Hygenic Fleeced Underwear Co. v. Way*, 35 Pa.Super 229, 235 (1907); *Benson v. Pennsylvania R. Co.*, 66 Pittsb.Leg.J. 350 (1917); and the RESTATEMENT OF TORTS § 908, comment (c). *Id.* In *Hygenic Fleeced*, the plaintiff filed an action in slander against the defendant because of

bert Court further stated that "The right to punitive damages is a mere incident to a cause of action . . . and not the subject of an action itself."⁵⁷

In *Rhoads v. Heberling*,⁵⁸ the Superior Court explained that the language in *Hilbert* was not meant to articulate that a jury can not award punitive damages without first awarding a specific amount of compensatory damages.⁵⁹ Rather, the court in *Rhoads* emphasized that if the facts support a cognizable cause of action, then punitive damages can be awarded even if compensatory damages are not awarded.⁶⁰

Justice Zappala also cited *Laniecki v. Polish Army Veterans Ass'n*,⁶¹ a Superior Court decision which applied the *Rhoads* explanation of *Hilbert*.⁶² In *Laniecki*, the court stressed that an award of punitive damages can be sustained without the awarding of compensatory damages, provided that there is a valid cause of action for compensatory damages.⁶³

The significance of the evaluation and discussion of the *Hilbert* decision served the purpose of showing the independent nature of punitive damages. By citing *Rhoads* and *Laniecki*, Justice Zappala was clearly demonstrating that there is no conditional reliance in the awarding of punitive damages on the awarding of compensatory damages.⁶⁴ Although this discussion does not directly address

certain information that the defendant published in an advertisement. 35 Pa. Super. at 230-231. In *Benson*, the plaintiff sued in negligence for emotional distress caused by the defendant when the train in which the plaintiff was riding carried him past his stop without warning him or without his knowledge. 66 PRTSB. LEG. J. at 350.

57. *Hygenic Fleeced Underwater Co. v. Way*, 35 Pa. Super. 229, 140 A.2d at 652 (1908).

58. 306 Pa. Super. 35, 451 A.2d 1378 (1982). See *supra* note 19 for the facts of this case.

59. *Rhoads*, 451 A.2d at 1382. The court in *Rhoads* concluded that the cases cited in *Hilbert* did not support a contrary finding. In making this conclusion, the court in *Rhoads* noted that the *Hygenic Fleeced* decision dealt with a slander action which, as the essence of the action, required the initial finding of special damages. The court also noted that in the *Benson* decision, the court denied recovery because no cause of action was cognizable under the applicable law. *Id.* at 1382-1383.

60. *Id.* at 1381. To further support this assertion, the court stated that Pennsylvania has adopted Comment (c) to § 908 of the RESTATEMENT (SECOND) OF TORTS. (1965). The relevant portion that the court cited is as follows: "It is essential . . . that facts be established which, apart from punitive damages, are sufficient to maintain a cause of action. *Id.*"

61. 331 Pa. Super 413, 480 A.2d 1101 (1984). See *supra* note 20 for the facts of this case.

62. 555 A.2d at 802-803.

63. *Laniecki*, 480 at 1106-1107. This case also cited § 908, comment (c) of the RESTATEMENT (SECOND) OF TORTS (1965). *Id.*

64. Ironically, in *Martin*, the Supreme Court of Pennsylvania cited the *Hilbert* deci-

the reasonable relationship requirement, it does provide pertinent general groundwork for understanding the association between punitive and compensatory damages.⁶⁵

After providing this general groundwork, Justice Zappala then specifically dealt with how current case law has addressed the reasonable relationship requirement. There has only been one Pennsylvania Supreme Court decision since *Hughes* that has addressed the reasonable relationship requirement. In *Martin v. Johns-Manville Corp.*,⁶⁶ the court stated that punitive damages must bear a reasonable relationship to compensatory damages.⁶⁷ Further, the Court cited *Hughes* to support this requirement.⁶⁸ However, the situation in *Martin* dealt with multiple litigants in a mass-marketed products liability action.⁶⁹ As such, the court in that decision paid particular attention to the role that the reasonable relationship requirement had in only allowing one litigant, out of multiple litigants, to receive his proportional share of the total punitive damage award.⁷⁰ Accordingly, the *Martin* decision can be easily and accurately distinguished as being only applicable to products liability.

In *Feld v. Merriam*,⁷¹ although the court did not discuss the reasonable relationship theory, it did affirmatively embrace and accept Section 908(2) of the Restatement (Second) of Torts regarding the imposition of punitive damages.⁷² Because Section 908(2) makes no reference to the reasonable relationship theory, Justice Zappala concluded that the Supreme Court had not accepted such a theory.⁷³

It is uncontroverted that the purpose of punitive damages is to serve as both a punishment and a deterrent. There is merit to the

sion as holding that a plaintiff must first prove actual compensatory damages in order to recover punitive damages. *Martin*, 494 A.2d at 1098.

65. This discussion also served the purpose of clarifying the *Hilbert* decision, which is commonly misunderstood. See *supra*, note 64, which shows that it is misunderstood in as recent a case as *Martin*.

66. 508 Pa. 154, 494 A.2d 1088 (1985). See *supra*, note 25 for the facts of this case.

67. *Martin*, 494 A.2d at 1098. This court cited *Hughes*.

68. *Id.* This court also cited *Neal v. Carey Canadian Mines Ltd.*, 548 F.Supp. 357 (E.D.Pa. 1982)(applying PA law). Note that in *Neal*, the court cited *Givens* as the applicable law. 548 F.Supp. at 377. *Givens* is one of the Pennsylvania Supreme Court cases prior to *Hughes*.

69. 494 A.2d at 1092.

70. 494 A.2d at 1099.

71. 506 Pa. 383, 485 A.2d 742 (1984).

72. 485 A.2d at 747.

73. 555 A.2d at 803.

Supreme Court's contention that the requirement of proportionality defeats such a purpose. It is clear that the Pennsylvania Supreme Court has unequivocally adopted Section 908(2) of the Second Restatement of Torts and that no reference is made by this section, nor any other section, to a reasonable relationship requirement. Further, the *Martin* decision was properly distinguished as being specifically applicable to products liability litigation. However, despite these correct insights, the Supreme Court in *Kirkbride* gave insufficient service to the doctrine of Stare Decisis when it precariously overruled *Hughes*, and paid no attention to the punitive damage cases prior to *Hughes*.

The significance of the *Kirkbride* decision is obvious. Because punitive damages are such an integral part of civil litigation, the ramifications of *Kirkbride* are broad. The previous and commonly accepted process of awarding punitive damages has been replaced. Because of this radical change, a forceful and concrete opinion was necessitated.

Despite overruling 75 years of prior case law, the Supreme Court of Pennsylvania had valid reasons to support this change. Essentially, the Court was concerned with maintaining the integrity of punitive damages as a valid deterrent. Further, the Court was concerned that the application of the reasonable relationship requirement would usurp the jury's function of weighing the factors set forth in Section 908 of the Restatement (Second) of Torts. However, if the Court had recognized prior case law but instead determined, based on the strength of its arguments, that a change, away from the reasonable relationship requirement, was necessary, then this decision would be more concrete and forceful. By practically ignoring prior case law, the Court only weakened what otherwise would have been a valid and sound decision.

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