The Social Costs of Punitive Damages Against Corporations in Environmental and Safety Tort

W. Kip Viscusi
Harvard Law School

Follow this and additional works at: http://lsr.nellco.org/harvard_olin
Part of the Law and Economics Commons

Recommended Citation
http://lsr.nellco.org/harvard_olin/237

This Article is brought to you for free and open access by the Harvard Law School at NELLCO Legal Scholarship Repository. It has been accepted for inclusion in Harvard Law School John M. Olin Center for Law, Economics and Business Discussion Paper Series by an authorized administrator of NELLCO Legal Scholarship Repository. For more information, please contact tracy.thompson@nellco.org.
THE SOCIAL COSTS OF PUNITIVE DAMAGES AGAINST CORPORATIONS IN ENVIRONMENTAL AND SAFETY TORT

W. Kip Viscusi

ABSTRACT

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

*Cogan Professor of Law and Economics and Director of the Program on Empirical Legal Studies, Harvard Law School.