

## **PUNITIVE DAMAGES EIGHT TIMES COMPENSATORY RULED EXCESSIVE AND REDUCED TO A 1:1 RATIO**

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*Hudgins v. Southwest Airlines, Co.*  
Ct. Appeals, Div. One, January 13, 2009

Authored By The [JSH Appellate Team](#)

Plaintiffs, Virginia-based bail enforcement agents, were traveling to Phoenix to apprehend a fugitive. Before the trip, Plaintiffs contacted Southwest Airlines ("SWA") to obtain instructions on how to lawfully transport handguns on the airplane. Plaintiffs fully complied with SWA's instructions, yet were arrested and charged with violating federal law related to carrying a weapon on an airplane. The charges were eventually dropped because the prosecutor determined that Plaintiffs made every attempt to comply with federal law.

In the subsequent civil suit against SWA, Plaintiffs each won compensatory damages of \$500,000 and punitive damages of \$4 million based on the actions of SWA's attorney during the prosecution of the federal charges. SWA's attorney had conditioned the release of an internal investigation (which concluded that its personnel failed to appropriately check Plaintiffs' credentials) upon Plaintiffs' executing a liability release. SWA's refusal to release the findings substantially delayed dismissal of the charges.

SWA argued on appeal that the \$4 million punitive awards were excessive and violated due process. In evaluating whether the trial court erred in failing to reduce the punitive awards, the court of appeals reviewed 1) the degree of reprehensibility of the defendant's misconduct, 2) the ratio between compensatory and punitive damages, and 3) how the award compared to other penalties. First, SWA acted maliciously when it allowed the criminal cases to proceed by conditioning disclosure of the internal investigation upon securing a liability release. This misconduct fell on the low to middle range of the reprehensibility scale. Second, an 8:1 ratio was unwarranted because the compensatory damages were substantial in light of the actual injury, with no comparable civil penalty for the misconduct. The Court held that the \$4 million punitive damages awards were excessive, and reduced the awards to \$500,000 for each plaintiff (or a 1:1 ratio).