How Much is Too Much?
Excessive Damages Review

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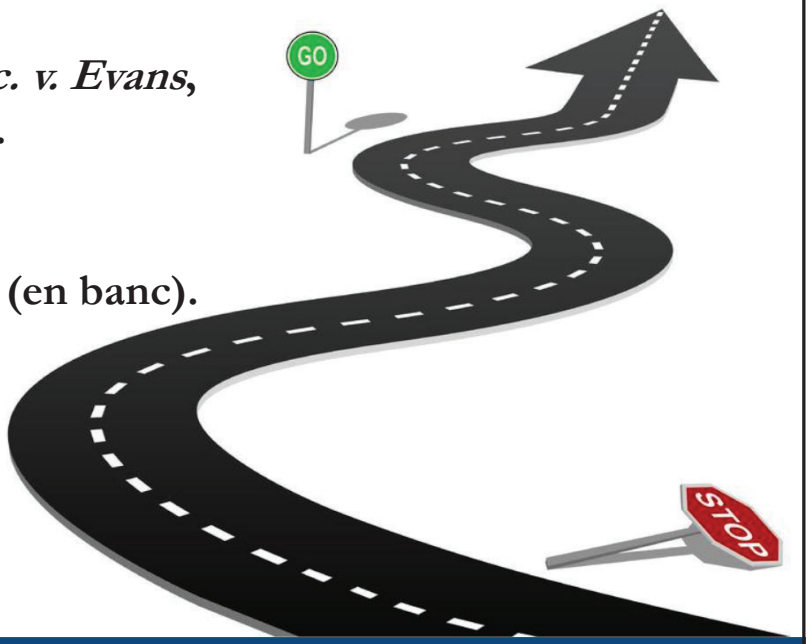
Recent Developments

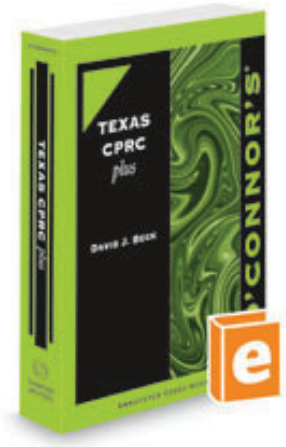
- *United Rentals North America, Inc. v. Evans*, (Tex. App.—Dallas 2020, pet. filed).
- *Gregory v. Chohan*, (Tex. App.—Dallas 2020, pet. filed) (en banc).



"Noneconomic damages" means

damages awarded for the purpose of compensating a claimant for

- physical pain and suffering,
- mental or emotional pain or anguish,
- loss of consortium,
- disfigurement,
- physical impairment,
- loss of companionship and society,
- inconvenience,
- loss of enjoyment of life,
- injury to reputation, and
- all other nonpecuniary losses of any kind other than exemplary damages.



Tex. Civ. Prac. & Rem. Code § 41.001 (12)

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Sufficiency Review

Findings always reviewed for legal/factual sufficiency.

Existence **of damages reviewed for legal sufficiency.**

Excessiveness **historically reviewed for factual suff.**

- **can only be raised in TC or CA, not TXSC.**
- **Remedy: new trial, remand, remittitur**

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Sufficiency Review

But see Bentley v. Bunton (Tex. 2002)

No evidence to support the SIZE of $7 million mental anguish award.

What's the Standard of Review in Texas?

The "sole" standard for "determining whether damages are excessive" is "factual sufficiency," which requires courts to "examine all the evidence in the record to determine whether sufficient evidence supports the damage award, remitting only if some portion is so factually insufficient or so against the great weight and preponderance of the evidence as to be manifestly unjust."

Pope v. Moore (Tex. 1986)

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"How Much is Too Much?: Review of the Excessiveness of Damages"