

in placing a cap on those punitive damages. Punitive damages are not intended as compensation, they are intended to be punishment. In the case of Browning Ferris Industries versus Kelso, 1989, all nine members of the Supreme Court of the United States expressed concern regarding punitive damages. Those justices are not extremists, those justices are not Republicans, those justices look at the law in the cases that come before them.

Justice Brennan, who is hardly a rightwing extremist, and countless other members of the Court have stated time and time again that punitive damages are for punishment of aggravated conduct and are a windfall to the plaintiffs.

The impact of such a windfall recovery is both unpredictable and at times substantial, said the court in Newport versus Fall Concerts, 1981. "Juries assess punitive damages in wholly unpredictable amounts bearing no necessary relation to the actual harm caused," said the Supreme Court in Gertz versus Robert Welsh, Inc., 1974.

Let us put some sense in this area. Let us reject the Furse amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentlewoman from Oregon [Ms. FURSE].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Ms. FURSE. Mr. Chairman, I demand a recorded voter.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 272, not voting 7, as follows:

[Roll No. 223]

AYES—155

Abercrombie English LaFalce
Ackerman Eshoo Lantos
Andrews Evans Laughlin
Baldacci Farr Levin
Barcia Fattah Lewis (GA)
Becerra Fields (LA) Lipinski
Beilenson Filner Lofgren
Bentsen Flake Lowey
Berman Foglietta Luther
Bishop Ford Maloney
Bonior Fox Manton
Borski Frost Markey
Brown (CA) Furse Mascara
Brown (FL) Gejdenson Matsui
Brown (OH) Gephardt McDade
Bryant (TX) Gibbons McDermott
Clay Gonzalez McHale
Clayton Green McKinney
Clyburn Gutierrez Meehan
Coble Hall (OH) Meek
Coleman Hastings (FL) Mfume
Collins (IL) Hefner Miller (CA)
Collins (MI) Hilliard Mineta
Conyers Hinchey Minge
Costello Holden Mink
Coyne Hoyer Moakley
de la Garza Istook Murtha
DeFazio Jackson-Lee Nadler
DeLauro Jefferson Neal
Dellums Johnson (SD) Oberstar
Deutsch Johnson, E. B. Olver
Dicks Johnston Ortiz
Dingell Kanjorski Owens
Dixon Kennedy (MA) Pallone
Doggett Kennedy (RI) Pastor
Doyle Kennelly Payne (NJ)
Durbin Kildee Pelosi
Engel Klink Pomeroy

Poshard
Rahall
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen

Chrysler
Clement
Clinger
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Creameans
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fazio
Foley

Serrano
Skaggs
Skelton
Slaughter
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thurman
Torres
Traficant
Tucker

Fowler
Frank (MA)
Frank (CT)
Frank (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kim
King
Kingston
Klecza
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Davis
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
McCarthy
McCollum
McCrery
McHugh
McIntosh
McKeon
McNulty
Menendez
Metcalf

NOES—272

Velazquez
Vento
Viscosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Yates

Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Towns

Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp

Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker

Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Cubin
Forbes
Kelly
Livingston
McInnis
Morella
Rangel

□ 1646

The Clerk announced the following pairs: On this vote:

Mr. Rangel for, with Mr. Forbes against.

Mr. CHAPMAN and Mr. TORRICELLI changed their vote from "aye" to "no." So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. KELLY. Mr. Chairman, I voted "nay" on the Furse amendment to H.R. 956, Common Sense Product Liability and Legal Reform Act, but my vote did not register by the electronic voting device.

PERSONAL EXPLANATION

Mr. MCINNIS. Mr. Chairman, I was unable to vote on rollcall Vote No. 223 because I was serving as the chairman pro tem of the Committee on Rules, during this vote. Had I been present, I would have voted "no" on the amendment offered by Representative FURSE.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 104-72.

AMENDMENT OFFERED BY MR. HYDE

Mr. Chairman, I offer an amendment at the desk, made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HYDE: Page 3, line 12, strike "are" and insert "is".

Page 3, line 15, strike "protect" and insert "project".

Page 3, line 23, strike "and is costing" and insert "causing".

Page 4, line 18, strike "transactions" and insert "transaction".

Page 8, beginning in line 2, strike "Except as provided in subsection (c) in" and insert "In".

Page 8, line 11, strike "the" and insert "a".

Page 18, redesignate subsection (e) as subsection (f) and insert after line 16 the following:

(e) EXCEPTION.—

(1) REASONABLE CARE.—A failure to exercise reasonable care in selecting among alternative product designs, formulations, instructions, or warnings shall not, by itself, constitute conduct that may give rise to punitive damages.

(2) AWARD OF OTHER DAMAGES.—Punitive damages may not be awarded in a product liability action unless damages for economic and noneconomic loss have been awarded in such action. For purposes of this paragraph, nominal damages do not constitute damages for economic and noneconomic loss.

Page 18, line 17, strike "CONSIDERATION" and insert "CONSIDERATIONS".

Page 29, in lines 8 and 12, strike "has" and insert "has or should have".