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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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COOPER INDUSTRIES, INC. v. LEATHERMAN TOOL GROUP, INC.**CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

No. 99–2035. Argued February 26, 2001— Decided May 14, 2001

Respondent Leatherman Tool Group, Inc., manufactures a multifunction tool which improves on the classic Swiss army knife. When petitioner Cooper Industries, Inc., used photographs of a modified version of Leatherman's tool in posters, packaging, and advertising materials introducing a competing tool, Leatherman filed this action asserting, *inter alia*, violations of the Trademark Act of 1946 (Lanham Act). Ultimately, a trial jury awarded Leatherman \$50,000 in compensatory damages and \$4.5 million in punitive damages. Rejecting Cooper's arguments that the punitive damages were grossly excessive under *BMW of North America, Inc. v. Gore*, 517 U. S. 559, the District Court entered judgment. As relevant here, the Ninth Circuit affirmed the punitive damages award, concluding that the District Court did not abuse its discretion in declining to reduce that award.

Held: Courts of Appeals should apply a *de novo* standard when reviewing district court determinations of the constitutionality of punitive damages awards. The Ninth Circuit erred in applying the less-demanding abuse-of-discretion standard in this case. Pp. 6–18.

(a) Compensatory damages redress the concrete loss that a plaintiff has suffered by reason of the defendant's wrongful conduct, but punitive damages are private fines intended to punish the defendant and deter future wrongdoing. A jury's assessment of the former is essentially a factual determination, but its imposition of the latter is an expression of its moral condemnation. States have broad discretion in imposing criminal penalties and punitive damages. Thus, when no constitutional issue is raised, a federal appellate court reviews the trial court's determination under an abuse-of-discretion standard. *Browning-Ferris Industries of Vt., Inc. v. Kelco Disposal, Inc.*, 492

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U. S. 257, 279. However, the Fourteenth Amendment’s Due Process Clause imposes substantive limits on the States’ discretion, making the Eighth Amendment’s prohibition against excessive fines and cruel and unusual punishments applicable to the States, *Furman v. Georgia*, 408 U. S. 238, and prohibiting States from imposing “grossly excessive” punishments on tortfeasors, *e.g.*, *Gore*, 517 U. S., at 562. The cases in which such limits were enforced involved constitutional violations predicated on judicial determinations that the punishments were grossly disproportional to the gravity of the offense. *E.g.*, *United States v. Bajakajian*, 524 U. S. 321, 334. The relevant constitutional line is inherently imprecise, *id.*, at 336, but, in deciding whether that line has been crossed, this Court has focused on the same three criteria: (1) the degree of the defendant’s reprehensibility or culpability; (2) the relationship between the penalty and the harm to the victim caused by the defendant’s actions; and (3) the sanctions imposed in other cases for comparable misconduct. See, *e.g.*, *Gore*, 517 U. S., at 575–585; *Bajakajian*, 524 U. S., at 337, 339, and 340–343. Moreover, and of greatest relevance for the instant issue, in each case the Court has engaged in an independent examination of the relevant criteria. See, *e.g.*, *id.*, at 337–344; *Gore*, 517 U. S., at 575–586. The reasons supporting the Court’s holding in *Ornelas v. United States*, 517 U. S. 690, that trial judges’ reasonable suspicion and probable cause determinations should be reviewed *de novo*— that “reasonable suspicion” and “probable cause” are fluid concepts that take their substantive content from the particular contexts in which the standards are being expressed; that, because such concepts acquire content only through case-by-case application, independent review is necessary if appellate courts are to maintain control of, and clarify, legal principles; and that *de novo* review tends to unify precedent and stabilize the law— are equally applicable when passing on district court determinations of the constitutionality of punitive damages awards. Pp. 6–12.

(b) Because a jury’s award of punitive damages is not a finding of “fact,” appellate review of the District Court’s determination that an award is consistent with due process does not implicate the Seventh Amendment concerns raised by *Leatherman* and its *amici*. Pp. 12–16.

(c) It seems likely in this case that a thorough, independent review of the District Court’s rejection of Cooper’s due process objections to the punitive damages award might have led the Ninth Circuit to reach a different result. In fact, this Court’s own consideration of the three *Gore* factors reveals questionable conclusions by the District Court that may not survive *de novo* review and illustrates why the Ninth Circuit’s answer to the constitutional question may depend on

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the standard of review. Pp. 16–18.
205 F. 3d 1351, vacated and remanded.

STEVENS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, KENNEDY, SOUTER, THOMAS, and BREYER, JJ., joined. THOMAS, J., filed a concurring opinion. SCALIA, J., filed an opinion concurring in the judgment. GINSBURG, J., filed a dissenting opinion.