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## **CONSUMER GROUP RELEASES NEW WHITE PAPER DEBUNKING COMMON MYTHS ABOUT PUNITIVE DAMAGES**

In a new White Paper released today entitled *WHAT YOU NEED TO KNOW ABOUT... PUNITIVE DAMAGES*, the national nonprofit consumer group Center for Justice & Democracy “examines the truth about punitive damages” and argues that “the imposition or threat of punitive damages is so critical in the fight against reckless corporate behavior that any effort to restrict them undermines the safety of us all.”

According to the Center for Justice & Democracy’s Executive Director, Joanne Doroshow, “Punitive damages, which are awarded by juries to stop egregious wrongdoing, are one of the least understood features of the civil justice system. Conservative free-market economists have written that punitive damages help deter non-cost-justified misconduct so they are essential to a fair, safe and efficient society. We found that contrary to conventional wisdom, punitive damages are extremely rare. Their social importance lies not in their frequency, but in signaling to big companies that the financial consequences of acting recklessly can be severe.”

According to author Emily Gottlieb, Deputy Director for Law and Policy at the Center for Justice & Democracy, *WHAT YOU NEED TO KNOW ABOUT... PUNITIVE DAMAGES* debunks many common myths about punitive damages and “shows how punitive damages, either actual or potential, factor into corporate decision making about product safety.” Among the report’s findings are:

- Punitive damages are rarely sought and rarely awarded (5 percent of civil cases, 3 percent of tort cases with plaintiff winners). Most punitive damage awards are quite modest (\$64,000 median in civil cases; \$55,000 median in tort cases).
- History shows that the imposition or threat of punitive damages has caused corporations to take dangerous products and services off the market and operate more safely. Manufacturers support caps on punitive damages because caps allow them to precisely budget their potential liability as a cost of doing business. However, if it becomes cost-effective for companies to simply pay victims and their families for deaths or injuries rather than fix the problem, the essential function of punitive damages to deter unsafe corporate conduct is undermined.

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- Since the 1990s, the U.S. Supreme Court has been placing arbitrary limits on punitive damages remedies. Moreover, in addition, 38 states have passed laws that impede consumers' ability to seek punitive remedies. Legislative restrictions include: 1) outright bans on punitive damages; 2) damages caps; 3) mandatory apportionment of punitives to state funds; 4) heightened burdens of proof; and 5) bifurcated trials.
- Congress is considering federal legislation - H.R. 5 - that would make it virtually impossible for medical malpractice and drug injury victims to obtain punitive damages from doctors, hospitals, nursing homes, pharmaceutical companies or medical device manufacturers, and would impose these federal limits in every state, overturning state law.
- Many who have pushed for restrictions on consumers' ability to seek punitive damages, including major companies pushing for caps on damages and other liability limits, do not hesitate to demand punitive damages when they feel their own interests have been compromised.
- Federal and state tax laws generally allow corporations to deduct punitive damages payments. Allowing companies to deduct punitives as "ordinary and necessary business expenses" effectively rewards and subsidizes grossly irresponsible or intentional behavior, undermining their purpose to deter egregious misconduct.

Writes author Emily Gottlieb, "The availability of punitive damages protects us all by holding wrongdoers accountable for egregious misconduct and deterring its future occurrence. Laws that restrict punitive awards place the public at serious risk, and lawmakers should not be misled by falsehoods spread by corporate special interests about this most valuable and important feature of our civil justice system."

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