

Appeal No. 26-10858

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

**NEIMA BENAVIDES, of Naibel Benavides Leon, deceased, MR. DILLON
ANGULO**

Plaintiffs-Appellees

v.

TESLA, INC.

Defendant-Appellant

On Appeal from the United States District Court
for the Southern District of Florida, Miami Division
Case No. 1:21-cv-21940-BB

**BRIEF OF AMICI CURIAE ERWIN CHERMERINSKY AND ANNE
BLOOM IN SUPPORT OF APPELLEES**

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**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1-26.1-3, the undersigned counsel for *amici curiae* Erwin Chemerinsky and Anne Bloom certifies that, in addition to the persons identified in Plaintiffs/Appellees' and Defendant/Appellant's Certificates of Interested Persons, the following have an interest in the outcome of this appeal:

Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. (Counsel for *amici curiae* Erwin Chemerinsky and Anne Bloom)

Bloom, Anne

Chemerinsky, Erwin

Mulherin, Stephen A. (Counsel for *amici curiae* Erwin Chemerinsky and Anne Bloom)

Amici curiae Erwin Chemerinsky and Anne Bloom further disclose that they are not publicly held corporations or other public entities; do not have parent corporations; and no publicly held corporation or other public entity owns 10% or more of the stock of *amici*.

Dated: September 23, 2026

Respectfully submitted,

/s/ Stephen Mulherin
Stephen Mulherin

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INTERESTS OF AMICI¹

Amici curiae are interested in this case because of the potential implications for access to justice and for the rights of individuals to hold wrongdoers accountable for their misconduct. Erwin Chemerinsky is the Dean and Jesse H. Choper Distinguished Professor of Law at Berkeley Law at the University of California. He is the author of twenty-two books, including a leading casebook and a leading treatise on constitutional law and more than 200 law review articles. He frequently argues appellate cases, including in the United States Supreme Court. In 2016, he was named a fellow of the American Academy of Arts and Sciences.

Anne Bloom is the Executive Director of the Civil Justice Research Initiative, an access to justice think tank at Berkeley Law. Previously, she was Associate Dean for Research and Professor of Law at the University of the Pacific McGeorge School of Law where she taught Torts, Civil Procedure, and Complex Litigation. She is trained in both law and social science and has authored many briefs and articles on civil justice related topics.

¹ All parties have consented to the filing of this brief. No party or counsel for a party in this appeal authored this *amicus* brief in whole or in part, or made a monetary contribution intended to fund the preparation or submission of this brief. No person or entity made a monetary contribution intended to fund the preparation or submission of this brief, other than the *amici curiae* or their counsel in the pending appeal. Fed. R. App. P. 29(a)(4)(E).

STATEMENT OF THE ISSUES

1. Whether the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States restricts jury awards of punitive damages to a 1:1 ratio?
2. Whether the jury's award of punitive damages in this case should be overturned as grossly excessive in violation of the Due Process Clause of the Constitution of the United States?

SUMMARY OF THE ARGUMENT

A jury determined that Tesla disregarded the safety of others, causing substantial personal injuries, and awarded plaintiffs compensatory and punitive damages. Considering, among other things, the reprehensibility of Tesla's conduct and the ratio between compensatory and punitive damages, the district court rejected Tesla's argument that the punitive damages award did not comport with due process. This Court should affirm the lower court's finding that the punitive damages award was constitutional.

Tesla contends that this Court should reverse the district court's decision, claiming (among other things) that due process requires a 1:1 ratio between compensatory and punitive damages. Appellant Br. at 50; *see also* Chamber of Commerce et al. Br. at 22; Washington Legal Foundation Br. at 16. But that has never been the rule in courts in the United States. In fact, the Supreme Court has

“consistently rejected the notion that the constitutional line is marked by a simple mathematical formula.” *BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 582 (1996). In *State Farm Mut. Auto. Ins. v. Campbell*, 538 U.S. 408, 425 (2003), the Court reiterated that it “decline[s] again to impose a bright-line ratio which a punitive damages award cannot exceed.” Although the Court indicated that generally punitive damage awards should be in a single digit ratio relative to compensatory damages, *id.*, there was no suggestion that a 1:1 ratio is constitutionally required. Quite the contrary, the Court held that even ratios of 10:1 or larger would be allowed “where a particularly egregious act has resulted in only a small amount of economic damages.” *Id.*

The district court was correct in determining that the punitive damages award in this case was constitutional. This Court should affirm.

ARGUMENT

I. The Fourteenth Amendment’s Due Process Clause Provides No Support for a Bright Line Rule for Proportional Limitations on the Amount of Punitive Damages

In *Gore*, the Supreme Court drew upon “[e]lementary notions of fairness enshrined in our constitutional jurisprudence,” to conclude that a “grossly excessive” punitive damages award violates the Due Process Clause of the Fourteenth Amendment. 517 U.S. at 574 (“[e]lementary notions of fairness enshrined in our constitutional jurisprudence dictate that a person receive fair notice not only of the

conduct that will subject him to punishment, but also of the severity of the penalty that a State may impose”); *id.* at 562 (a “grossly excessive” punitive damages award violates the due process clause of the Fourteenth Amendment).

The constitutional foundation for this conclusion was debated at the time and continues to be debated as part of an ongoing conversation concerning substantive due process. *See, e.g., id.* at 598-99 (Scalia, J., dissenting) (arguing that the Fourteenth Amendment’s Due Process Clause is not a “secret repository of substantive guarantees against unfairness”); *State Farm*, 538 U.S. at 429 (Scalia, J., dissenting) (“the Due Process Clause provides no substantive protections against ‘excessive’ or ‘unreasonable’ awards of punitive damages”); *id.* at 429 (Thomas, J., dissenting) (“I continue to believe that the Constitution does not constrain the size of punitive damage awards”); *id.* at 438-39 (Ginsburg, J., dissenting) (“I remain of the view that this Court has no warrant to reform state law governing awards of punitive damages”); *see also Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 331-32 (2022) (Thomas, J., concurring) (arguing that substantive due process lacks a basis in the Constitution’s text and history).

In *State Farm*, however, the Court reiterated that the Fourteenth Amendment’s Due Process Clause places some substantive limits on punitive damages. 538 U.S. at 416 (“The Due Process Clause of the Fourteenth Amendment prohibits the imposition of grossly excessive or arbitrary punishments on a tortfeasor.”) But

crucially, both *Gore* and *State Farm* rejected a bright line rule of proportionality. Indeed, the Court in *State Farm* specifically refused to impose a fixed ratio between compensatory and punitive damages, noting that it has “consistently rejected the notion that the constitutional line is marked by a simple mathematical formula.” *Id.* at 424 (quoting *Gore*, 517 U.S. at 582). And although the Court in *State Farm* found the 145 to 1 ratio constitutionally excessive, it also made clear that not all disproportionately high punitive awards are unconstitutional. Instead, it emphasized that “there are no rigid benchmarks that a punitive damages award may not surpass.” *Id.* at 425. Nor did *State Farm* overrule *TXO Prod. Corp. v. All. Res. Corp.*, 509 U.S. 443 (1993) (plurality opinion), in which the Court upheld a \$10 million punitive damages award against \$19,000 in compensatory damages—a ratio of approximately 526 to 1. *See id.* at 462-63.

Recent cases from this Court affirm that there is no “bright-line ratio which a punitive damages award cannot exceed.” *Edwards v. Grubbs*, 179 F.4th 909, 933 (11th Cir. 2026). In *Edwards*, the Court affirmed the trial court’s conclusion that a 1:1 ratio was appropriate and affirmed the trial court’s subsequent reduction of the punitive damages award on other grounds. *Id.* at 937. But crucially, it also emphasized that the Court would “not second guess the judge who sat through the trial, heard the testimony, observed the witnesses and had the unique opportunity to consider the evidence in the living room context while” it had only the “cold paper

record.” *Id.* at 933 (cleaned up); *see also Faulk v. Dimerco Express, USA Corp.*, 172 F.4th 844, 864-65 (11th Cir. 2026) (emphasizing there is no certain ratio at which an award is constitutionally excessive and approving a 7.69 to 1 ratio); *Cote v. Philip Morris USA, Inc.*, 985 F.3d 840, 848 (11th Cir. 2021) (noting that the Supreme Court has declined to impose a bright-line rule); *Williams v. First Advantage LNS Screening Sols., Inc.*, 947 F.3d 735, 748 (11th Cir. 2020) (noting that there is no “bright line demarcating the limits of a constitutionally acceptable punitive damages award”).

Nevertheless, Tesla argues that the punitive damages award cannot exceed the amount of compensatory damages. Appellant Br. at 50. But the sentence Tesla relies on for this argument—*State Farm*’s statement that “[w]hen compensatory damages are substantial, then a lesser ratio, perhaps only equal to compensatory damages, can reach the outermost limit of the due process guarantee,” 538 U.S. at 425—did not establish any sort of rule that a 1:1 ratio is required in all cases involving substantial damages. In *Gore*, the Court noted a history of “[s]ome 65 enactments” between 1275 and 1753 authorizing double, treble, or quadruple damages to deter and punish unlawful conduct. 517 U.S. at 581. Ratios above 1:1 have long been recognized as necessary to serve the punishment and deterrence rationales underlying punitive damages. *See id.*

As the Supreme Court has repeatedly emphasized, the evaluation of punitive damage awards does not turn on a specific ratio but depends on the facts and circumstances of each case. *State Farm*, 538 U.S. at 425 (“The precise award in any case . . . must be based upon the facts and circumstances of the defendant’s conduct and the harm to the plaintiff”); *see also TXO*, 509 U.S. at 457 (plurality opinion) (“a jury imposing a punitive damages award must make a qualitative assessment based on a host of facts and circumstances unique to the particular case before it.”).

In this case, a jury heard evidence that Tesla caused severe personal injuries to the plaintiffs as well as evidence of potential harm to other victims if similar future conduct by Tesla is not deterred. *See Appellees Br.* at 43-48. This type of evidence clearly demonstrates the reprehensibility of Tesla’s conduct using the guideposts and criteria articulated in *Gore* and *State Farm*. *Id.* at 49-52. The Fourteenth Amendment’s Due Process Clause provides no justification for revisiting the jury’s and the district court’s conclusions.

II. Tesla’s Attempt to Attach a Bright Line Rule to the Fourteenth Amendment’s Due Process Clause Raises Federalism Concerns

As the Supreme Court recently emphasized, overly broad readings of the Due Process Clause that have “no basis in the Constitution’s text or in our Nation’s history” have implications for States’ rights. *Dobbs*, 597 U.S. at 300; *see also Gore*, 517 U.S. at 598 (Scalia, J., dissenting) (“[s]ince the Constitution does not make [concerns about excessive punitive damages] any of [the Court’s] business, the

Court’s activities in this area are an unjustified incursion into the province of state governments”). Here, the text of the Constitution plainly provides no basis for Tesla’s attempt to attach a bright line rule to the Fourteenth Amendment’s Due Process Clause. Nor does our nation’s history.

For most of this country’s history, the Supreme Court never even considered whether a punitive damages award violated the Constitution’s requirement for due process of law, much less a bright line rule for limiting punitive damages. *See* Erwin Chemerinsky, *The Constitution and Punishment*, 56 *Stan. L. Rev.* 1049, 1054 (2004). Beginning in 1988, following an extensive campaign by the tort reform movement, the Supreme Court began to issue rulings subjecting punitive damages awards to the requirements of *procedural* due process. *Id.* at 1054-55 (reviewing Supreme Court decisions evaluating punitive damages through the lens of procedural due process); *see also* Anne Bloom, *The Impact of Tort Reform in the United States*, 21 *Ann. Rev. L. & Soc. Sci.* 415 (2025) (summarizing academic research on how tort reformers propagated misleading stories about the legal system). Yet, as Justice Scalia noted in his dissent in *Gore*, these early cases, and the precedents upon which they relied, did not take “the step of declaring a punitive award unconstitutional” because it was “too big.” *Gore*, 517 U.S. at 600 (Scalia, J., dissenting); *see also TXO*, 509 U.S. at 457-58 (declining to formulate a “test” for determining whether a particular punitive award is “grossly excessive”).

Even in recognizing due process limits on punitive damages in *Gore*, the Court stressed: “In our federal system, States necessarily have considerable flexibility in determining the level of punitive damages that they will allow” and that “[m]ost” States “afford the jury similar latitude.” *Gore*, 517 U.S. at 568. Imposing a rigid rule that punitive damages cannot exceed compensatory damages would be a substantial, unwarranted intrusion on to States and their tort law, as well as the historic role of juries.

Throughout history, the Supreme Court has cautioned courts to refrain from substituting their judgments for those of juries in the punitive damages context noting that “[a]t the time of adoption of the Fourteenth Amendment, it was well understood that punitive damages represent the assessment by the jury, as the voice of the community, of the measure of punishment the defendant deserved.” *Id.* at 600 (Scalia, J., dissenting) (citing *Barry v. Edmunds*, 116 U.S. 550, 565 (1886); *Mo. Pac. R. Co. v. Humes*, 115 U.S. 512, 521 (1885); and *Day v. Woodworth*, 13 How. 363, 371 (1852)).

To adopt such a rule without support from the text of the Constitution and the nation’s history is an unwarranted incursion on States’ rights. *See Gore*, 517 U.S. at 598 (Scalia, J., joined by Thomas, J., dissenting) (maintaining that the Court’s attempts to establish Constitutional limits on the size of punitive damages awards “are an unjustified incursion into the province of state governments”); *see also id.* at

607 (Ginsburg, J., joined by Rehnquist, C.J., dissenting) (“The Court, I am convinced, unnecessarily and unwisely ventures into territory traditionally within States’ domain”).

CONCLUSION

Here, a jury made an assessment that Tesla’s conduct involved significant misconduct and awarded plaintiffs compensatory and punitive damages. The district court appropriately concluded that the punitive damages award was constitutional. There is no basis for Tesla’s contention that due process requires a 1:1 ratio between compensatory and punitive damages. This Court should affirm.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) and 32(g)(1) because this brief contains 2,247 words.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared with a minimum font size of 14-point Times New Roman, a proportionally spaced font, using Microsoft Office Word.

/s/ Stephen Mulherin
Stephen Mulherin

CERTIFICATE OF SERVICE

I certify that on September 23, 2026, the foregoing brief was electronically filed with the Clerk of the United States Court of Appeals for the Eleventh Circuit by using the CM/ECF system. All parties were served through the Court's CM/ECF system.

/s/ Stephen Mulherin
Stephen Mulherin