the compensatory and punitive damages or any recognition of the relevance of the wealth of the defendant. The only apparent constraint was that the court could review the jury's findings to determine if the amount was so excessive as to shock the conscience of the court.

Because state law did not define critieria for assessing punitive damages, the court felt that due process was violated. Minimally, due process requires that a person be capable of understanding the consequences of the law and his actions in relation to that law. Delegation to the jury of a decision without standards for making that decision does not comport with the requirements of due process. The South Carolina standards did not meet minimal due process requirements since the jury could award any amount it felt was appropriate to punish or deter without any meaningful limitation on that authority.

Moreover, there was no effective check on the jury's discretion. First, the law did not indicate when a verdict was excessive. Second, a federal court, bound by the Seventh Amendment of the Constitution, could not order a reduction in damages as a South Carolina state court might. Under the Seventh Amendment of the Constitution, the federal court could only accept the finding or throw it out and order a new trial.

Interestingly, the South Carolina Supreme Court modified the standards for assessing punitive damages after this action began. In its modification, the state supreme court adopted the multiple factor test the United States Supreme Court approved in *Pacific Mutual Life Insurance Co. v. Haslip*. In *Haslip*, the Court concluded that a court's post-verdict review of the defendant's culpability, the duration of the conduct, the defendant's awareness of the conduct, the existence of prior similar conduct, the likelihood of deterrence and other factors were sufficient to protect the due process rights of the defendant. Under the Seventh Amendment, however, the district court could not revise the jury's findings. The court, therefore, remanded the case for another trial and directed the district court to instruct the jury on the limitations suggested in *Haslip* as a way of limiting jury discretion.

Liability for Suicide–Failure to Warn Parents

Eisel v. Board of Education of Montgomery County, 597 A.2d 447 (Md. 1991).

In this case, the Maryland Court of Appeals held that a school and its counselors may have a duty to report a student's suggestion of suicide to her parents. The parent sued the school system and its counselors after his daughter committed suicide. In the week before the suicide, the daughter told several friends and fellow students that she was thinking about taking her own life. The students told one of the school's counselors who in turn told the daughter's counselor. The daughter denied she made the statement when the counselor confronted her. The counselor took no further action. The daughter then took her own life in an apparent murder-suicide pact with another teenager. The trial court dismissed the parent's action, holding the school did not have a duty to the parent to communicate the information. The court of appeals reversed the lower court's decision.

The court initially noted that courts have recognized a duty to come to the aid of a suicidal person in two situations. First, a duty may exist if the person is under the custody of another. Second, a duty may exist if there is a special confidential relationship between the parties as in that of a patient and her therapist.

Though neither of these situations was exactly presented to the court, it nonetheless found that some special circumstances might justify a duty. First, the case involved the protection of an adolescent. Second, the action complained of the school's failure to communicate an emergency to the parent. Third, the school stood in a parent-like relationship with the child. Finally, the relationship between the child and the school counselor was similar to that of patient and therapist. Based on these special circumstances, the court went on to discuss the general test of duty to determine whether an obligation extended from the school to the child or parent to provide a warning.

The general test for establishing a duty considers several factors including the foreseeability of the danger, its gravity, the relationship of the duty to the harm, the burden on the defendant if a duty is recognized, and the availability of insurance to cover the loss. On each of these factors the court found in favor of the parent. First, the court found that the child's action was foreseeable since she made statements that she was considering suicide. Her denial to the counselor did not break that relationship because counselors were advised that a student was likely to deny suicidal intentions to them but not to their peers. Second, the court found that the harm was grave and the state, through a legislative enactment, had made suicide prevention a significant public policy goal. Third, the court found that the causal relationship between the breach of a duty and the death was strong and was not mitigated by the intentional act of the child. Simply put, the act of the child was not an independent cause of her death. Fourth, the court felt that there was a moral obligation to come to the aid of the child as evidenced by legislative enactments to promote programs to prevent teenage suicide. Finally, both the school and the counselors had insurance coverage and the duty to warn the parent presented them with very little burden compared to the harm that might occur. On balance, then, the court held that the complaint presented sufficient facts to raise a duty on the part of the school and its counselors to warn the parent.

CGL Coverage of CERCLA Response Costs

Independent Petrochemical Corp. v. Aetna Casualty and Surety Co., 944 F.2d 940 (D.C. Cir. 1991).

In an unusual break with another circuit court in its interpretation of an insurance contract affecting the coverage for an identical incident, the