



Scanlan Griffiths
+ Aldridge

*Davis v. Blast
Properties*– RECENT
CLARIFICATIONS TO
THE PUNITIVE DAMAGES
AMENDMENT
STANDARD

Idaho Code 6-1604

- ❖ (1) In any action seeking recovery of punitive damages, the claimant must prove, by *clear and convincing evidence*, oppressive, fraudulent, malicious or outrageous conduct by the party against whom the claim for punitive damages is asserted.
- ❖ (2) In all civil actions in which punitive damages are permitted, *no claim for damages shall be filed containing a prayer for relief seeking punitive damages*. However, a party may, pursuant to a pretrial motion and after hearing before the court, amend the pleadings to include a prayer for relief seeking punitive damages. *The court shall allow the motion to amend the pleadings if, after weighing the evidence presented, the court concludes that, the moving party has established at such hearing a reasonable likelihood of proving facts at trial sufficient to support an award of punitive damages. . . .*

Judge Winmill's Decision/Certified Question – *Davis v. Blast Properties, Inc.*

- ❖ In *Davis v. Blast Properties, Inc.*, Case No. 1:21-cv-000218-BLW, 2023 WL 1767311 (D. Idaho Feb. 3, 2023), Judge Winmill identifies two prevailing methods for evaluation of a pre-trial motion to amend:
 - The Rule 50 Method (which Judge Winmill adopts pending certified question)
 - The Evidence-Balancing Approach
- ❖ Certifies the question of the appropriate method to the Idaho Supreme Court pursuant to Idaho Appellate Rule 12.3

The Rule 50 Approach – Per Judge Winmill

- ❖ Refers to the standard for a Motion for Judgment as a Matter of Law under F.R.C.P. 50
- ❖ “Courts view all evidence in the light most favorable to the movant and give the movant the benefit of all legitimate inferences. In doing so, courts do not assess credibility or ‘resolve conflicts in testimony or disputes of fact and thus need not hold full-scale evidentiary hearings.’”

Basis for Judge Winmill's Articulation of the Rule 50 Approach

- ❖ Notes that it is regularly adopted by the U.S. District Court for the District of Idaho based upon two Idaho Supreme Court decisions, in which the ISC focused on “whether a reasonable jury could award punitive damages based upon the movant’s evidence, not on whether the court itself would be inclined to do so”:
 - *Hall v. Farmers Alliance Mutual Insurance Company*, 145 Idaho 313, 319-320 (2008)
 - *Gunter v. Murphy’s Lounge, LLC*, 141 Idaho 16, 29-30 (2005).

The Evidence-Balancing Approach – Per Judge Winmill

- ❖ “[U]nder this approach, the movant can only add a claim for punitive damages when the court finds that the movant is ‘reasonably likely’ to actually obtain a punitive damages award.”
- ❖ Judge Winmill suggests that this approach could require a full-scale evidentiary hearing in which the court weighs conflicting evidence.

Basis for Judge Winmill's Articulation of the Evidence-Balancing Approach

- ❖ Several lower state courts have found that the evidence-balancing approach is mandated by the language of I.C. 6-1604(2), which provides that the court must “weigh[] the evidence presented” as part of its analysis.
- ❖ Judge Winmill also relies upon the Idaho Supreme Court's characterization of the lower court's rulings in *Hall, supra*, and *Parks v. Safeco Ins. Co.*, 160 Idaho 556, 563 (2016).

Basis for Judge Winmill's Adoption of the Rule 50 Approach

- ❖ Judge Winmill found that the Rule 50 approach was consistent with the plain meaning of section 6-1604(2), based upon the term “sufficient to support,” which does not require a showing that a jury is likely to grant such an award.
- ❖ The Rule 50 approach gives effect to what Judge Winmill characterizes as “the only reasonable meaning” of the “weigh the evidence” language of section 6-1604(2) because to read it otherwise would require “a trial before a trial” every time punitive damages are sought.
- ❖ He rejected concerns that this approach would allow for rubber stamping of punitive damages amendments based upon the District of Idaho's past denial of amendments under the Rule 50 standard.

Davis v. Blast Properties, Inc. – the Idaho Supreme Court's Holdings

- ❖ The Court issued its decision in *Davis*, 551 P.3d 706 (2024) on June 27, 2024.
- ❖ The Court formulated the certified question as follows:
 - What is the proper means for a trial court to comply with its obligations under Idaho Code section 6-1604(2) when ruling upon a motion to amend a complaint or counterclaim to include a prayer for relief seeking punitive damages.
- ❖ Key holdings include:
 - I.R.C.P. 15 does not apply to motions for leave to amend to seek punitives.
 - The clear and convincing evidence standard applies to the jury's determination at trial and not the Court's resolution of a motion for leave to amend.
 - The "Rule 50" Standard applies to the resolution of a motion pursuant to section 6-1604(2).

***Davis v. Blast Properties, Inc.* – the Idaho Supreme Court's Analysis – Rule 15**

- ❖ **Notes that past cases, including *Duffin v. Idaho Crop Improvement Association*, 126 Idaho 1002 (1995), erroneously reference Rule 15 because the plain language of Idaho Code section 6-1604(2) imposes a higher standard.**

Davis v. Blast Properties, Inc. – the Idaho Supreme Court’s Analysis – Rule 50 Standard

- ❖ Section 6-1604(2) requires the trial court to “weigh” the evidence presented by the moving party.
- ❖ This does not require an evidentiary hearing because “weigh the evidence” in the context of section 6-1604(2) “requires a determination of whether there is a ‘reasonable probability’ of ‘proving facts at trial’ that are ‘sufficient’ to support an award of punitive damages.”
- ❖ “This means the trial court must assess whether the evidence submitted by the moving party is: (1) admissible at trial; and (2) ‘sufficient’ to support an award of punitive damages.”

Davis v. Blast Properties, Inc. – the Idaho Supreme Court’s Analysis – Application

- ❖ The determination of admissibility at trial is simply guided by the applicable rules of evidence.
- ❖ The determination of “sufficiency” of evidence means two things:
 - The claim giving rise to the request for punitive damages must be “legally cognizable.”
 - The trial court must determine whether there is “substantial” evidence – meaning a reasonable probability of having “enough” admissible evidence to support a claim requesting punitive damages. This analysis does not require application of the clear and convincing evidence standard.

Implications of *Davis*

- ❖ Evidence supporting the motion would likely have to be presented in the same manner as evidence supporting an MSJ (Rule 56(c)(2)). This may lead to earlier evidentiary motion practice, like motions in limine, raised in opposition to a motion for leave to amend.
- ❖ The Court will not consider conflicting evidence, so the opposing party would focus on the admissibility and sufficiency of evidence presented and the legal sufficiency of claims made by the movant.

Questions

Kevin A. Griffiths
Scanlan Griffiths + Aldridge



Scanlan Griffiths
+Aldridge

(208) 991-1200

kag@sgaidaho.com

