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Awaiting verdict: Steve Smith, a Cordova, Alaska, fisherman, saw the local fishing industry decline in the years after the massive 1989 Exxon Valdez oil spill.  
AL GRILLO/AP

# HIGH COURT TO HEAR EXXON VALDEZ DAMAGES CASE

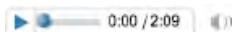
**At issue: Should the company pay \$2.5 billion in punitive damages for the 1989 oil spill?**

By [Warren Richey](#) | Staff writer of The Christian Science Monitor from the February 27, 2008 edition

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**WASHINGTON** - Nineteen years after the tanker Exxon Valdez spilled some 258,000 barrels of oil into the pristine waters of Alaska's Prince William Sound, the debate still rages over how much Exxon should pay beyond the \$3.4 billion it has already spent on cleanup.



Reporter Warren Richey discusses a case before the Supreme Court that examines whether a \$2.5 billion punitive damages award for the 1989 Exxon Valdez spill should stand.

On Wednesday, that question arrives at the US Supreme Court, where the justices must decide whether to uphold a \$2.5 billion punitive-damages judgment against Exxon Shipping. It is said to be the largest punitive damages award ever sustained by a federal appeals court.

The case, Exxon Shipping Co. v. Grant Baker, is being closely followed by shipping executives, environmental activists, oil-industry officials, and commercial fishermen, among others. It has also attracted the attention of scholars monitoring the Supreme Court's emerging jurisprudence on excessive punitive damages.

Lawyers for Exxon offer three main arguments for invalidating the punitive damages.

Under maritime law, Exxon should not be held liable to pay punitive damages for the negligent acts of a tanker captain at sea unless there is evidence that Exxon directed or participated in grounding the tanker, they say.

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Second, the Clean Water Act establishes a comprehensive regime to punish and deter illegal behavior that pollutes the nation's water resources. But Exxon lawyers say Congress did not include a provision in the act permitting punitive damages.

Third, the lawyers say punitive damages are unnecessary in a situation like the Exxon Valdez cleanup where Exxon has already willingly paid criminal and civil fines, penalties, compensatory damages, cleanup costs, and other expenses.

"The \$3.4 billion Exxon has already paid is enough to deter anyone from anything," writes Washington lawyer Walter Dellinger in his brief to the court on behalf of Exxon Mobil Corp.

Some analysts note that the oil spill was an accident rather than a product of corporate greed. "This is not a case where Exxon was cutting costs to try to increase profits," says Theodore Frank, a legal expert at the American Enterprise Institute in Washington. "Exxon lost money on this. They are not trying to deliberately steer ships aground and lose their oil."

Others say Exxon's massive cleanup expenses are beside the point. The spill caused extensive damage, not only to the fragile environment but also to the lives of Alaskan residents.

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