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Our opinion



Two decades after oil spill, Alaskans still await 'new start'

On March 24, 1989, the oil tanker Exxon Valdez ran aground on the coast of Alaska and disgorged millions of gallons of oil into the waters of Prince William Sound. For thousands of Alaskan fishermen, the pollution wiped out a way of life, so they sued, hoping for some measure of justice. They are still hoping. But the case drags on and on, highlighting the gross unfairness of a Dickensian system that serves the interests of defendants and lawyers who profit from endless delays, but does little or nothing to protect those with a grievance.

The case has outlived at least four lawyers from the core group that filed suit, a federal judge who heard the first appeal and about 6,000 of the nearly 33,000 Alaskans who sought relief. Now, their heirs are waiting, too. On Wednesday, nearly 19 years after the spill, the U.S. Supreme Court will hear arguments over whether the corporation must pay \$2.5 billion in punitive damages.

The injured Alaskans argue credibly that Exxon was irresponsible in leaving an alcoholic captain in charge. [Exxon contends](#) the award is excessive and not permitted under maritime law. Either way, the time taken to decide the case should embarrass every member of the court.

(1989 photo by Jack Smith, AP)

The case took five years just to come to trial. In 1994, a federal jury in Anchorage ordered Exxon to pay \$5 billion in punitive damages. The plaintiffs were elated: One of their lawyers said it would "allow them to make a new start on their lives."

They were wrong. With so much at stake, Exxon was expected to appeal, and the corporation did so, three years after trial. That put the case in the hands of the lethargic 9th U.S. Circuit Court of Appeals, where it languished. Four years passed before a three-judge panel finally issued its first ruling, an unconscionable delay. The court upheld the jury's judgment but ordered the award reduced. Twice more, as the Supreme Court handed down rulings on the size of punitive damage awards, Exxon filed new appeals, sending the case back to the appellate court, which in 2006 reduced the award to \$2.5 billion. Exxon then appealed to the Supreme Court, where the case arrives Wednesday.

The litigation's endless trek through the courts is extreme, but excessive delays are always at risk when one side has the incentive and the financial means to exploit the system. Preliminary findings in a study of damage cases in New York and California show shorter delays to be common. In 20% of the cases, plaintiffs waited a year after the verdict to get their first check; 10% waited more than two years, according to the study by the RAND Corporation, a California think tank.

In another extreme, high-profile case, lawyers for former president Richard Nixon used appeals and

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other delaying tactics to stall release of his White House tapes for more than two decades.

Nixon had a right to appeal, as does Exxon. But if justice delayed is justice denied, as British Prime Minister William Gladstone famously said in the 19th century, then the judiciary needs to force slow-moving cases such as these onto a faster track.

Slow justice

1989:

The Exxon Valdez, an oil tanker, runs aground in Prince William Sound, off the Alaskan coast, and spills millions of gallons of oil.

1994:

Federal jury finds in favor of 33,000 fishermen, Native Alaskans and other plaintiffs. It imposes a \$5 billion punitive damage award against Exxon.

1997:

Exxon appeals to the 9th U.S. Circuit Court of Appeals.

2001:

The court [upholds the judgment](#), but sends it back to the trial judge, telling him to reduce the amount.

2006:

The 9th Circuit [cuts the award](#) to \$2.5 billion.

Wednesday:

U.S. Supreme Court to hear Exxon's appeal.

Posted at 12:22 AM/ET, February 26, 2008 in Business issues - Editorial, Law/Judiciary - Editorial, Politics, Government - Editorial, Supreme Court - Editorial, USA TODAY editorial | [Permalink](#)

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Ra-Horakhty wrote: 1d 9h ago

I can only hope that USA Today will keep up the pressure on Exxon and the 'judiciary' to find some remnants of honour in this disgraceful, nay, scandalous, affair. What is the matter with these people?

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HRW wrote: 1d 6h ago

Seems a miscarriage of justice when a multi-billion dollar corporation can do such terrible damage, be found culpible then be able to delay paying for the crime for 2 decades and running. Just using it's deep pockets and the American justice system, even.

Gas prices are outrageous anyway so it's not like there's some big worry that making Exxon pay for it's stupidity will make them rise further. That's happening anyway.

Not much hope can be held in this big business favoring government. But, maybe the Supreme Court can finally put an end to Exxon's blalant playing of the system.

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