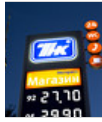


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March 13, 2007, 1:44 PM

## Gibson Dunn Used "Legal Thuggery," Say Montana Supremes

Article

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By Paul Davies



It's probably not the best day to be a senior partner at Gibson, Dunn & Crutcher. The Montana Supreme Court earlier today upheld a \$9.9 million punitive damage award against the firm, finding that Gibson Dunn acted with "actual malice" in suing an art expert who declared a painting with the signature of C.M. Russell was done by Olaf C. Seltzer, thus greatly reducing its value. Here's the [105-page opinion](#).

The court found that the firm, which employs about 800 lawyers, acted with a "high level of misconduct" and is using the courts as a "tool" in an attempt to intimidate Steve Seltzer, a Montana painter and Olaf's grandson, who is an expert in his grandfather's work. Gibson Dunn's "use of the judicial system amounts to legal thuggery," the state Supreme Court said.

The legal dispute was the subject of a [page-one story](#) in The Wall Street Journal last March. The initial \$21.4 million verdict in actual and punitive damages for Seltzer was one of the largest in the country in 2005. The judge overseeing the case reduced the punitive damages to \$9.9 million, citing a U.S. Supreme Court ruling that limits how much punitive damages can exceed compensatory damages. The jury also awarded \$1.1 million in compensatory damages.

Both the law firm and Seltzer appealed the ruling. Gibson Dunn contended the damages were excessive, and that the trial judge improperly instructed jurors, excluded key defense testimony and allowed prejudicial plaintiff evidence. Seltzer wanted the \$21.4 million verdict reinstated in part because the firm had insurance for the full amount.

I'm disappointed in the ruling, said Seltzer's attorney, Alexander Blewett III of Great Falls, Mont. Gibson Dunn, which does legal work for Dow Jones & Co., the owner of the The Wall Street Journal, issued the following statement:

This ruling grossly mischaracterizes the facts, violates constitutional limits on punitive damage awards, and contradicts recent decisions of the U.S. Supreme Court and many other courts from around the country striking down arbitrary and excessive damage awards," Pearl Piatt, a spokeswoman for the firm, said in a statement. "We plan to seek review by the U.S. Supreme Court.



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The Law Blog is an online publication that covers hot cases, emerging trends and big personalities in law. It's brought to you by lead writer **Joe Palazzolo**, with contributions from The Wall Street Journal's legal reporters (below) and other staff. Joe, who also writes for the paper, has spent five years covering lawyers, the U.S. Department of Justice, anticorruption enforcement, and the federal courts. He learned early on that the best stories either start in the courtroom or end up there.



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Gibson Dunn sued Seltzer of behalf of collector Steve Morton who owned the painting, titled "Lassoing a Longhorn." Morton purchased the painting for \$38,000 in 1972, which has "C.M. Russell 1913" scrawled on the lower left corner. Russell, who died in 1926, was a well-known painter of scenes from the American West.

Morton planned to sell the painting an auction. But a partner at the auction house questioned whether the painting was done by Russell. He contacted Seltzer and another expert to authenticate the painting. After Seltzer determined the painting was done by his grandfather and not Russell reducing the value to \$50,000 from as much as \$800,000 Morton had a retired partner at Gibson Dunn send a letter threatening to sue if Seltzer if he didn't recant his opinion.

After Seltzer refused, Gibson Dunn filed a lawsuit on behalf of Morton in federal court in July 2002 accusing Seltzer of fraud, malice and bad faith.

Seltzer then produced affidavits from nine experts who said the painting wasn't a Russell and that the signature was a forgery. Morton withdrew his lawsuit in February 2003. Five days later, Seltzer sued Gibson Dunn, the firm's retired partner and Morton accusing them of causing emotional distress and damaging his reputation via "malicious prosecution" and "abuse of process."

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10:55 pm March 14, 2007

to **ladedah** wrote :

you are so right. What do right thinking folks like us have to do to simply outlaw those lawyers and firms that represent citizens? We need to pass legislation that penalizes citizens for speaking up and getting all uppity. Once all these lawsuits are out of the way, America will be a real Christian Nirvana. Off with their heads! Karl Rove rules! Republican majority written into law. The Fourth Reich will carry us into the Rapture!

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7:28 pm March 14, 2007

**Anon** wrote :

The defense lawyers are worse than the plaintiffs' lawyers.

2:55 pm March 14, 2007

**ladedah** wrote :

I am surprised that Gibson Dunn has insurance that will cover a situation where there has actually been a jury award of punitive damages; usually insurers won't cover such a loss. At any rate, they are a fabulously profitable firm that is dug in like a tic in the California establishment (and elsewhere). I have encountered "thuggish" behavior from them many time sin my own law practice. They will never change, nor will the way many people tend to misuse the judicial apparatus in this country.



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