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Research and Analysis on the Calculation Method of Punitive Damages in Food Safety Civil Public Interest Litigation

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Abstract

As an important legal tool for safeguarding the public interest of society, civil public interest litigation on food safety has gained widespread attention and application in recent years. However, in the course of its practice, the calculation method of punitive damages is particularly confusing, which not only affects the fairness and authority of judicial decisions, but also hinders the healthy development of the food safety legal system. The purpose of this paper is to analyze the main reasons for the confusion in the calculation method of punitive damages in the civil public interest litigation on food safety, such as the non-uniform calculation standard, unclear calculation factors and non-transparent calculation process, and put forward the improvement of the legal provisions, unification of judicial practice, strengthen the theoretical research, improve the transparency of the calculation and the establishment of a supervisory mechanism and other improvement recommendations, in order to provide a strong guarantee for the healthy development of the legal system of food safety. In order to provide a strong guarantee for the healthy development of the food safety legal system, the lawful rights and interests of consumers are effectively safeguarded, and social harmony and stability are promoted.

Keywords

Food Safety, Civil Public Interest Litigation, Punitive Damages, Calculations

1.Introduction

"Food for the people, food safety first". Food safety is a major political and livelihood issue, as well as a major public security issue. In recent years, all regions and departments concerned to implement food safety strategy, the overall situation of food safety continues to improve, but still face many problems and challenges, the situation remains complex and grim. The CPC Central Committee and the State Council "on deepening reforms to strengthen food safety opinions" proposed "explore the establishment of food safety civil public interest litigation punitive damages system", can be in the food of criminal acts to be criminal, administrative penalties at the same time, give full play to the civil public interest litigation of the function of the pursuit of responsibility, through the tortfeasor to bring civil public interest litigation punitive damages, increase the number of cases, and increase the number of cases. By filing civil public interest litigation punitive damages against the infringer, increasing the cost of its violation of the law, the infringer and the potential violators

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of the law to produce a deterrent and warning effect. Explore the establishment of food safety civil public interest litigation punitive damages system, for the maintenance of market order, to protect the legitimate rights and interests of consumers, safeguard the public interest, and promote the modernization of the national food safety governance system and governance capacity is of great significance. However, due to the current laws of our country through the food safety civil public interest litigation punitive damages litigation request is not clear enough, in the face of the application of punitive damages, the lack of the application of punitive damages and its method of calculation of the legal basis for the calculation of the specific amount of its calculation is also not a clear calculation standard and so on the problem of the existence of issues that lead to the defendant in practice ultimately in the assumption of the responsibility for punitive damages, there are great differences between the class case different judgment for the judicial system, and the case is different. Difference, the case of different judgment on the judicial authority has caused a huge impact. Food safety public welfare litigation punitive damages and its calculation method of the lack of applicable rules inevitably lead to the practical operation of a number of difficult problems, in the food safety public welfare disputes proliferate at the moment, further study of the relevant application of the problem is very necessary, this is conducive to standardize the practical operation, reduce the contradiction between the referee, but also help to build a solid food safety "firewall This is conducive to standardize the practice, reduce contradictory decisions, but also help to build a solid food safety "firewall", the infringer and potential offenders to produce deterrence and warning, so as to further enhance the people's sense of access, happiness and security.

2.Manifestations of confusion in the calculation of punitive damages

In the civil public interest litigation on food safety, the confusion in the calculation method of punitive damages is indeed a prominent problem, the performance of which mainly includes the non-uniformity of the calculation standard, the lack of clarity of the calculation factors and the non-transparency of the calculation process. The following is a detailed analysis of these manifestations:

2.1. Lack of harmonization of calculation criteria

In civil public interest litigation on food safety, there are significant differences in the standards for calculating punitive damages, which leads to variability and uncertainty in adjudication results. Different courts or judges may adopt different calculation standards in their decisions, with more than 80% of cases using the sales amount as the basis for calculation, some using the "value of goods illegally produced or sold" as the basis for calculation in criminal or administrative proceedings, and a small number of cases using the loss suffered as the basis for calculation. On the calculation of punitive damages multiplier, there is also a big dispute in judicial practice, 81% of the cases using ten times the multiplier for calculation, 10% of the cases using three times the multiplier for calculation, the remaining minority of cases using one, two, five, seven times and other multipliers, and even more judgment did not write the basis. This inconsistency not only affects the uniformity of the application of the law, but also undermines public confidence in judicial fairness.

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2.2. Unclear calculation factors

In food safety civil public interest litigation, the calculation of punitive damages requires comprehensive consideration of a variety of factors, including but not limited to the degree of fault of the defendant, the nature, circumstances, duration and scope of impact of the infringement, as well as the actual damages or the potential risk of significant damages. However, in practice, these factors often lack clear standards and bases, making it difficult for judges to accurately measure and assess them in their decisions. This lack of clarity makes calculations more subjective and arbitrary, making it difficult to ensure the fairness and reasonableness of adjudication results.

2.3. Non-transparent calculation process

The process of calculating punitive damages often lacks transparency in food safety civil public interest litigation. When calculating punitive damages, courts often lack detailed explanations and interpretations, and do not fully demonstrate the process and basis of calculation. This makes it difficult for the parties and the public to understand and accept the outcome of the decision, and increases questions about judicial impartiality.

3.Analysis of the reasons for the confusion over the method of calculating punitive damages

The reasons for the confusion over punitive damages calculations in food safety civil public interest litigation can be analyzed in depth in the following areas:

3.1. Inadequate legal provisions

Currently, China's legal framework for the calculation of punitive damages in the field of civil public interest litigation for food safety is still inadequate. Although regulations such as the Food Safety Law and the Consumer Rights and Interests Protection Law have made preliminary provisions on punitive damages, however, due to the lack of detailed calculation standards and clear operational procedures, these provisions are often difficult to be effectively implemented in judicial practice, which has led to a lot of confusion and disputes. As a result of the imperfect legal provisions, different courts or judges may use different calculation standards and methods in their rulings, leading to variability and uncertainty in the outcome of the decisions, further exacerbating the confusion over calculation methods.

3.2.Insufficient theoretical research

At present, there is a relative lack of theoretical research on the calculation method of punitive damages in civil public interest litigation for food safety. Scholars mainly focus on the applicable conditions and standards of punitive damages and other aspects of the problem, while relatively little research on the calculation method. This leads to the lack of sufficient theoretical support and guidance in judicial practice. And there are many views and controversies in the academic community on the calculation method of punitive damages, and a unified calculation base and multiplier has not yet been formed. Yang Huixin believes that

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public interest litigation punitive damages should have its own calculation rules[2]. Zhang Jiaju believes that the punitive damages of consumer civil public interest litigation should be calculated on the basis of the "illegal benefits obtained", and the calculation standard of punitive damages of consumer civil public interest litigation should be three times as a general principle, and at the same time, it can be determined according to the specific case discretion to reduce the specific amount[3]. Huang Zhongshun believes that the "amount of the value of the illegal production and sale of goods" recognized in criminal or administrative litigation should be used as the basis for calculating punitive damages[7]. Sun Yongshang believes that at the contingent level, the price paid by all victimized consumers is the total amount of the price or fee obtained by the operator from each victimized consumer for the sale of goods or the provision of services, so it is more convenient to use the business income to calculate the actual operation, which is conducive to reducing the difficulty of investigating and obtaining evidence[9]. Different scholars have proposed different calculation methods from different perspectives and positions, and have failed to reach a clear consensus on the factors to be considered in the calculation, making the choice of calculation method complicated and difficult. This relative weakness in theoretical research has brought certain difficulties to judicial practice.

4.Suggestions for improvement

In order to ensure the fairness and accuracy of the calculation of punitive damages, it is indeed necessary for us to start from a number of aspects, so as to safeguard judicial justice as well as the healthy development of the legal system on food safety.

4.1. Improvement of legal provisions and harmonization of judicial practice

In response to the problem of confusing calculation methods, the relevant legal provisions should be further improved. Specifically, the standards and procedures for calculating punitive damages in civil public interest litigation for food safety can be clearly stipulated in the Food Safety Law, the Law on the Protection of Consumer Rights and Interests, etc., and under the standard for calculating punitive damages in civil public interest litigation for food safety centered on the measurement of interests, a reasonable base figure can be determined and the amount of punitive damages can be calculated in accordance with the elasticity of floating multiples ranging from three to ten times of the base figure, but if the the circumstances are very serious then a reasonable multiple of more than ten times may be adapted, and a multiplier appeal review system shall be established to ensure the reasonableness of the multiplier and the uniformity and consistency of judicial practice. On the basis of improving the legal provisions, the uniformity and consistency of judicial practice should be strengthened. The methods and standards for calculating punitive damages can be clarified through the issuance of typical cases, the formulation of judicial interpretations of ambiguous or controversial points, and the strengthening of guidance and supervision of courts at all levels to ensure that the results of the decisions are fair and authoritative.

4.2. Strengthening theoretical research

Relevant theoretical research should be strengthened to address the problem of insufficient theoretical research. Invite relevant experts and scholars to conduct thematic seminars on the calculation method of puni-

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tive damages in civil public interest litigation on food safety. Through in-depth exchanges and discussions, to form a more comprehensive and in-depth understanding of the calculation method, based on in-depth research, to build a perfect theoretical system. Strengthening interaction and feedback with judicial practice. Through case analysis and empirical research, etc., to understand the problems and deficiencies in judicial practice, and to put forward improvement opinions and suggestions in a targeted manner. To form a more scientific and reasonable theoretical system and institutional framework, and to provide strong theoretical support and guidance for judicial practice.

4.3. Increased transparency of calculations

In order to overcome the subjectivity and arbitrariness in the calculation of punitive damages in civil public interest litigation for food safety, it is recommended that the relevant laws and regulations should further refine the criteria for the calculation of punitive damages, and clarify the specific weights and methods of consideration of each factor. Firstly, detailed fault assessment standards can be formulated to ensure that the judge in the assessment of the defendant's fault can be based on objective and quantifiable standards for judgment, so as to clarify what degree of fault should correspond to what degree of compensation. Secondly, the nature and circumstances of the infringement should also be specifically categorized, and the corresponding compensation range should be stipulated. This can ensure that the different nature and circumstances of the infringement can be reasonable and fair punishment, to prevent the recurrence of similar violations. At the same time, the court should strengthen its examination and explanation of the calculation factors when hearing cases. In the judgment, the specific factors, calculation methods and results based on which punitive damages are calculated should be elaborated in detail, so that the parties and the public can clearly understand the logic and basis of the decision. This not only helps to enhance judicial transparency, but also improves public trust in judicial decisions. By enhancing judicial transparency and strengthening legal interpretation and clarification, subjectivity and arbitrariness in the calculation process can be effectively reduced, thus ensuring the fairness and reasonableness of punitive damages. This not only helps to safeguard the legitimate rights and interests of consumers, but also serves as an effective deterrent to illegal acts in the area of food safety.

4.4. Establishment of effective oversight mechanisms

In order to ensure the fairness and accuracy of the calculation of punitive damages, the establishment of a corresponding supervisory mechanism is essential. Specialized supervisory bodies or committees should be established to supervise and assess the conduct of the courts in calculating punitive damages, and their duties and powers should be clearly defined. Establishment of evaluation criteria and clear evaluation criteria for assessing whether the court's conduct in calculating punitive damages complies with the provisions of the law and the principle of justice. These criteria should cover such aspects as the compliance of the calculation procedures, the scientific nature of the calculation methods, and the reasonableness of the calculation results. Clarify the supervision process and formulate a detailed supervision process, including all aspects of the initiation, implementation, evaluation and feedback of supervision. Ensure that supervision is carried out in an orderly manner to avoid omission or duplication. Through the implementation of the above measures, an effective supervision mechanism can be established to ensure the fairness and accuracy of the calculation of punitive damages. This will help safeguard consumer rights and interests and social justice.

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5.Conclusions

In conclusion, the problem of the confusing method of calculating punitive damages in civil public interest litigation on food safety is indeed a complex and urgent problem, which has a bearing on the protection of consumers' rights and interests, judicial justice and the healthy development of the legal system of food safety. In order to solve this problem, we do need to start from many aspects, and at the same time, we also need to recognize the complexity and arduousness of civil public interest litigation on food safety. This is not only a legal issue, but also a comprehensive issue involving various aspects of society, economy and culture. Therefore, we need the joint efforts and support of the whole society, including the government, enterprises, consumers, the media and other parties should actively participate in it, and jointly promote the improvement and development of the food safety legal system. Only in this way can we gradually establish a uniform, fair and reasonable system of standards for calculating punitive damages, provide a strong guarantee for the healthy development of the food safety legal system, effectively safeguard the legitimate rights and interests of consumers and promote social harmony and stability.

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