

13-1011. Punitive damages.

If you find that plaintiff should recover actual damages, and if you further find clear and convincing evidence that the publication of the communication by defendant was made with knowledge of its falsity or with a reckless disregard for whether it was false or not, then you may award punitive damages.

Reckless disregard is not measured by whether a reasonably prudent person would have published or would have investigated before publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of the communication.

Clear and convincing evidence is that evidence which, when weighed against the evidence in opposition, leaves you with an abiding conviction that the evidence is true.

Such additional damages are awarded for the limited purposes of punishment and to deter others from the commission of like offenses.

The amount of punitive damages must be based on reason and justice taking into account all the circumstances, including the nature of the wrong and such aggravating and mitigating circumstances as may be shown. The amount awarded, if any, must be reasonably related to the actual damages and injury and not disproportionate to the circumstances.

USE NOTES

The requirement that clear and convincing evidence must support a verdict for punitive damages and the explanation of that standard of proof should be given here even if it was given in UJI 13-1009 in order to assure that the jury focuses on the enhanced burden of proof that must be met if punitive damages are to be awarded.