

13-1718. Punitive damages.

If you find that _____ (*plaintiff*) should recover compensatory damages for the bad faith actions of the insurer, and you find that the conduct of the insurer was [in reckless disregard for the interests of _____ (*plaintiff*)], [based on a dishonest judgment], [or] [malicious, willful or wanton], then you may award punitive damages.

["Reckless disregard" is an insurer's [frivolous or unfounded refusal to pay] [or] [dishonest or unfair balancing of its own interests and the interests of the insured].]

["Dishonest judgment" is a failure by the insurer to honestly and fairly balance its own interests and the interests of the insured.]

["Malicious conduct" is the intentional doing of a wrongful act with knowledge that the act was wrongful.]

["Willful conduct" is the intentional doing of a wrongful act with knowledge that harm may result.]

["Wanton conduct" is the doing of an act with utter indifference to or conscious disregard for a person's rights.]

Punitive 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 any aggravating and mitigating circumstances as may be shown. The property or wealth of the defendant is a legitimate factor for your consideration. The amount awarded must be reasonably related to the injury and to any damages given as compensation and not disproportionate to the circumstances.

[_____ (*plaintiff*) has introduced evidence of [harm to others] [risk of harm to others] as a result of _____ (*defendant*)'s conduct. You may consider this evidence in determining the nature and enormity of _____ (*defendant*)'s wrongful conduct toward _____ (*plaintiff*). You may not, however, include in your award of punitive damages any award that punishes _____ (*defendant*) for harm to others not before this court.]

USE NOTES

This instruction must ordinarily be given in an action for insurance bad faith in which punitive damages are available under the law. The trial court may omit this instruction only in those circumstances in which the plaintiff fails to make a *prima facie* showing that the insurer's conduct exhibited a culpable mental state. Because this instruction is complete on the availability of punitive damages in insurance bad faith actions, UJI 13-1827 NMRA is unnecessary and should not be given in these cases.

The final bracketed paragraph of this instruction must be given when evidence of harm or injury to non-parties to the litigation has been admitted into evidence during the trial. It is not intended to limit the jury's consideration of evidence of harm to the first-party insured in third party cases.

[As amended, effective March 21, 2005; as amended by Supreme Court Order No. S-1-RCR-2023-00028, effective for all cases pending or filed on or after December 31, 2023.]