

California Jury and Punitive Damages Award

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Findings That the California Jury Has To Make To Award Punitive Damages

The California jury must establish that the action by the defendant that caused harm to the plaintiff was made out of malice, oppression, or fraud (CACI No. 3940, n.d.). Malice means that the action by the defendant was not only despicable but also that the defendant engaged in a despicable act knowing that it might harm the plaintiff, but went ahead and engaged in the action and thus interfering with the personal safety of the plaintiff (CACI No. 3940, n.d.). A despicable act is a heinous act that reasonable people would not hesitate to look down upon if it is brought to their attention.

Oppression entails the defendant knowingly engaging in an action that puts the plaintiff in unjust hardship and one that contravened the rights of the plaintiff as stipulated in the Constitution (CACI No. 3940, n.d.). The Constitution stipulates some fundamental rights, namely the right to life, property, and liberty. The California jury is justified to award punitive damages should it be identified beyond reasonable doubt that the action of the defendant infringed the fore mentioned fundamental rights of the plaintiff.

Fraud means the defendant intentionally engaged in misrepresentation or withholding some crucial information with an intention of harming the plaintiff (CACI No. 3940, n.d.). The California jury may award the plaintiff punitive damages award if the plaintiff can show beyond reasonable doubt that the defendant engaged in a fraudulent activity that caused the plaintiff physical harm, economic damage, or emotional harm.

The Pros and Cons of Imposing This Responsibility on a California Jury

One of the pros of the California jury having to should this responsibility is that it gives room for people without special knowledge in the law, but who may be conversant in other relevant areas to participate in a California jury. Technical people without special knowledge can sit in a jury and render their expert opinions on whether an action entails malice, oppression, or fraud and participate in the actual decision-making process which significantly obscures the miscarriage of justice (Best, Barnes & Kahn-Fogel, 2018).

It is an approach that is highly dynamic and can be altered as many times as possible to reflect the current conditions. An action that may involve malice, fraud, or oppression in one case may not be perceived as malicious, fraudulent, or oppressive in another case (Best, Barnes & Kahn-Fogel, 2018). Thus, when California juries are given the freedom to use personal judgment to judge whether an action is malicious, fraudulent, or oppressive, justice is served more judiciously than when California juries have to rely on ironclad stipulations to determine what constitutes malice, fraud, or oppression.

One of the cons of the California jury having to shoulder this responsibility is that personal bias may arise in the giving of the punitive damages award. It is common for people to subconsciously incline towards people who are like them while people will tend not to incline people who are different from them. Consequently, this may cause inconsistencies not only in the giving of punitive damages award but also in the amount given as a punitive damage award (Best, Barnes & Kahn-Fogel, 2018).

Another con of the California jury having to shoulder this responsibility is that it exempts a California jury from being held liable for the verdicts they make (Best, Barnes & Kahn-Fogel, 2018). The determination of malice, oppression, and fraud will vary from case to case particularly since there exists no stipulated guideline to arrive on that conclusion. This could lead

a California jury to award punitive damage awards for cases that clearly it was uncalled for while they could fail to give punitive damage awards for cases where that would be justified.

References

Best, A., Barnes, D. W., & Kahn-Fogel, N. (2018). *Basic tort law: cases, statutes, and problems*.

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CACI No. 3940. Punitive Damages - Individual Defendant-Trial Not Bifurcated. (n.d.).

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