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DEERING'S CALIFORNIA CODES ANNOTATED
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*** This document is current with urgency legislation through Chapter 14 of the 2012 Session and Proposition 28, approved by the electorate at the June 5, 2012, Presidential Primary Election. ***

CIVIL CODE
Division 4. General Provisions
Part 1. Relief
Title 2. Compensatory Relief
Chapter 1. Damages in General
Article 3. Exemplary Damages

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Cal Civ Code § 3294 (2012)

§ 3294. When permitted

(a) In an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

(b) An employer shall not be liable for damages pursuant to subdivision (a), based upon acts of an employee of the employer, unless the employer had advance knowledge of the unfitness of the employee and employed him or her with a conscious disregard of the rights or safety of others or authorized or ratified the wrongful conduct for which the damages are awarded or was personally guilty of oppression, fraud, or malice. With respect to a corporate employer, the advance knowledge and conscious disregard, authorization, ratification or act of oppression, fraud, or malice must be on the part of an officer, director, or managing agent of the corporation.

(c) As used in this section, the following definitions shall apply:

(1) "Malice" means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others.

(2) "Oppression" means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights.

(3) "Fraud" means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury.

(d) Damages may be recovered pursuant to this section in an action pursuant to Chapter 4 (commencing with *Section 377.10*) of *Title 3 of Part 2 of the Code of Civil Procedure* based upon a death which resulted from a homicide for which the defendant has been convicted of a felony, whether or not the decedent died instantly or survived the fatal injury for some period of time. The procedures for joinder and consolidation contained in *Section 377.62 of the Code of*

Civil Procedure shall apply to prevent multiple recoveries of punitive or exemplary damages based upon the same wrongful act.

(e) The amendments to this section made by Chapter 1498 of the Statutes of 1987 apply to all actions in which the initial trial has not commenced prior to January 1, 1988.

HISTORY:

Enacted Stats 1872. Amended Stats 1905 ch 463 § 1; Stats 1980 ch 1242 § 1; Stats 1982 ch 174 § 1; Stats 1983 ch 408 § 1; Stats 1987 ch 1498 § 5; Stats 1988 ch 160 § 17; Stats 1992 ch 178 § 5 (SB 1496).