

**411.184 Definitions -- Punitive damages -- Proof of punitive damages.**

- (1) As used in this section and KRS 411.186, unless the context requires otherwise:
  - (a) "Oppression" means conduct which is specifically intended by the defendant to subject the plaintiff to cruel and unjust hardship.
  - (b) "Fraud" means an intentional misrepresentation, deceit, or concealment of material fact known to the defendant and made with the intention of causing injury to the plaintiff.
  - (c) "Malice" means either conduct which is specifically intended by the defendant to cause tangible or intangible injury to the plaintiff or conduct that is carried out by the defendant both with a flagrant indifference to the rights of the plaintiff and with a subjective awareness that such conduct will result in human death or bodily harm.
  - (d) "Plaintiff" means any party claiming punitive damages.
  - (e) "Defendant" means any party against whom punitive damages are sought.
  - (f) "Punitive damages" includes exemplary damages and means damages, other than compensatory and nominal damages, awarded against a person to punish and to discourage him and others from similar conduct in the future.
- (2) A plaintiff shall recover punitive damages only upon proving, by clear and convincing evidence, that the defendant from whom such damages are sought acted toward the plaintiff with oppression, fraud or malice.
- (3) In no case shall punitive damages be assessed against a principal or employer for the act of an agent or employee unless such principal or employer authorized or ratified or should have anticipated the conduct in question.
- (4) In no case shall punitive damages be awarded for breach of contract.
- (5) This statute is applicable to all cases in which punitive damages are sought and supersedes any and all existing statutory or judicial law insofar as such law is inconsistent with the provisions of this statute.

**Effective:** July 15, 1988

**History:** Created 1988 Ky. Acts ch. 224, sec. 2, effective July 15, 1988.