

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1608

By: Cotner

AS INTRODUCED

An Act relating to damages; amending 23 O.S. 1991, Section 9, which relates to exemplary damages; modifying conduct for which exemplary damages may be awarded; modifying process governing awards of exemplary damages; defining term; establishing burden of proof; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 23 O.S. 1991, Section 9, is amended to read as follows:

Section 9. A. In any action for the breach of an obligation not arising from contract, where the defendant has been guilty of willful and wanton conduct ~~evincing a wanton or reckless disregard for the rights of another, oppression, fraud or malice, actual or presumed~~, the jury, in addition to the actual damages, may give damages for the sake of example, and by way of punishing the defendant, in an amount not exceeding the amount of actual damages awarded. ~~Provided, however, if at the conclusion of the evidence and prior to the submission of the case to the jury, the court shall find, on the record and out of the presence of the jury, that there~~

~~is clear and convincing evidence that the defendant is guilty of conduct evincing a wanton or reckless disregard for the rights of another, oppression, fraud or malice, actual or presumed, then the jury may give damages for the sake of example, and by way of punishing the defendant, and the percentage limitation on such damages set forth in this section shall not apply.~~

B. For purposes of this section, "willful and wanton conduct" means conduct intentionally committed which the defendant must have realized as oppressive, fraudulent or malicious or which was done dangerously, without regard to consequences, or of the rights and safety of others, particularly the plaintiff.

C. Exemplary damages against the defendant shall only be awarded when the plaintiff proves beyond a reasonable doubt that the defendant has been guilty of willful and wanton conduct.

D. The provisions of this section shall be strictly construed.

SECTION 2. This act shall become effective September 1, 1993.

44-1-5544

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