

# Agenda

## Standing Committee on Model Civil Jury Instructions

May 11, 2015

4:00 to 5:00 p.m.

Administrative Office of the Courts  
Scott M. Matheson Courthouse  
450 South State Street  
Judicial Council Room, Suite N31

Welcome and approval of minutes	Tab 1	Juli Blanch - Chair
Introduction of new members Patricia Kuendig and Joel Ferre, and appreciation for service of retiring members Rich Humpherys and Phil Ferguson		Juli Blanch
Subcommittees and subject area timelines	Tab 2	Juli Blanch
Punitive Damages Instruction 2026	Tab 3	Peter Summerill and Nancy Sylvester

[Committee Web Page](#)

[Published Instructions](#)

**Meeting Schedule:** Matheson Courthouse, Judicial Council Room, 4:00 to 6:00 p.m. unless otherwise stated.

~~June 8, 2015 (this meeting has been canceled)~~

September 14, 2015

October 13, 2015

November 9, 2015

December 14, 2015

# Tab 1

## ***MINUTES***

Advisory Committee on Model Civil Jury Instructions

April 13, 2015

4:00 p.m.

Present: Juli Blanch (chair), Marianna Di Paolo, Phillip S. Ferguson, Tracy H. Fowler, Honorable Ryan M. Harris, Gary L. Johnson, Paul M. Simmons, Peter W. Summerill, Nancy Sylvester

Excused: Paul M. Belnap, L. Rich Humpherys, John R. Lund, Stuart Schultz, Ryan M. Springer, Honorable Andrew H. Stone

1. *Approval of minutes.* On motion of Mr. Johnson, seconded by Mr. Ferguson, the committee approved the minutes of the March 9, 2015 meeting.

2. *New committee members.* There are two openings on the committee as a result of Messrs. Ferguson and Humpherys leaving the committee--one for a member of the plaintiff's bar and one for a member of the defense bar. Ms. Blanch and Ms. Sylvester reviewed the applicants. Members of the defense bar who have applied are Steven Combe, Chad Derum, Mark Dalton Dunn, Joel Ferre, and Ricky Shelton. Members of the plaintiff's bar who have applied are Nelson Abbott, Patricia Kuendig, and David Stevenson. Ms. Blanch asked for any feedback the committee might have on any of the applicants. Ms. Blanch and Ms. Sylvester will make a recommendation to the Judicial Council.

3. *Subcommittees.* Ms. Blanch reviewed the list of subcommittee members and noted that some of the subcommittees still need members. Mr. Ferguson recommended Tom Christensen and Greg Barrick for the Wills and Probate subcommittee. Mr. Simmons suggested Bill Prater and Joyce Maughan and Mr. Johnson suggested Matt Barneck for the same subcommittee. Mr. Johnson also recommended Bob Sykes for the Emotional Distress subcommittee. Ms. Blanch invited committee members to e-mail her any other suggestions.

Dr. Di Paolo joined the meeting.

4. *CV2026, Punitive damages--introduction.* The committee reviewed new edits to CV2026. Mr. Schultz had submitted an e-mail commenting on them and noted that there was no substantive difference between the definitions of "willful and malicious" and "knowing and reckless." He asked why, if they are the same, the cases and statute refer to them as alternative bases for punitive damages. Mr. Summerill said that he would not include "knew" under the definition of "willful and malicious." He noted that if a defendant acted intending to cause harm, the action would be criminal, but criminal misconduct is not a prerequisite for punitive damages. In his e-mail, Mr. Schultz had presented a definition of "willful misconduct" from non-punitive-damage cases: "Willful misconduct is the intentional doing of an act, or the intentional failure to do an act, with knowledge that serious injury is a probable result." *Chang v. Soldier*

*Summit Dev.*, 1999 UT App 27 (quoting *Brown v. Frandsen*, 19 Utah 2d 116, 118, 426 P.2d 1021, 1022 (Utah 1967)). Dr. Di Paolo doubted whether jurors would understand the difference between doing an act knowing that serious injury is the probable result and doing the act intending to cause serious injury. She thought that the average person would think that if someone did an intentional act knowing that harm is probable, the person must have intended the harm. The committee noted that someone may know what he is doing but not necessarily intend the consequences. Dr. Di Paolo noted that some languages use different words for *know* depending on what it is a person knows, but English does not. She thought that more should be added to the definition of “willful” for an average juror to understand it. She suggested saying “with knowledge that *some sort of* serious injury is a probable result.” Mr. Simmons asked whether the committee should include definitions at all if neither the statute nor the case law define the terms as used in the statute. Judge Harris thought that the definitions would not vary from one context to another. Dr. Di Paolo doubted whether jurors would understand the terms without definitions in the instruction. Mr. Johnson thought that an intentional act was required so as to avoid awarding punitive damages for negligence, but Mr. Ferguson noted that reckless misconduct may be enough for punitive damages. The committee noted that even though *Chang* offered a definition of “willful misconduct,” the punitive damage statute requires “willful *and malicious*” misconduct. Mr. Ferguson and Dr. Di Paolo noted that “malice” implies to the average person a bad intent, or an intent to cause harm. But Mr. Ferguson also noted that “malice” can have different legal meanings depending on the context. Under general rules of statutory construction, statutes should be construed to give meaning to every word. Mr. Summerill noted that there is a difference between malice in fact and malice in law. He added that, under *Johnson v. Rogers*, actual malice is not required for punitive damages except in cases of shoplifting; legal malice is sufficient in all other cases. Ms. Sylvester noted that the committee note says that “malicious” conduct has not yet been defined. The committee decided to leave in the definition of “knowing and reckless indifference” but say that the committee was unable to reach a working definition of the other terms (“willful and malicious” and “intentionally fraudulent” conduct) and to refer practitioners to the case law. Mr. Simmons suggested leaving out the comment from the instruction itself and just putting it in the committee note, but the committee thought that the instruction should refer to the committee note. Otherwise, practitioners may be confused and may think that “knowing and reckless” is the only standard for punitive damages. Ms. Sylvester will revise the committee note and circulate it to the committee by e-mail to review. The committee revised the last sentence of paragraph 4 of the committee note to say that “one option would be for 2026, 2033, and/or 2034 to be read in the first phase, with the remainder to be read during any second phase.”

Mr. Summerill was excused.

5. *CV2031, Reprehensibility—similar conduct toward other people.* On motion of Mr. Johnson, the committee approved the new CV2031.

6. *CV2033, Driving under the influence.* Judge Harris initially suggested deleting the first two sentences of the first paragraph as duplicative of CV2026. But later, when it became apparent that CV2033 and CV2026 may not be given in the same case, the committee decided to leave them in. Ms. Sylvester thought there was some issue as to whether the standard of evidence in a case involving driving under the influence or causing the death of someone by a controlled substance was a preponderance standard or a clear and convincing standard, based on *C.T. ex rel. Taylor v. Johnson*, 1999 UT 35, 977 P.2d 479, but the committee thought that the statute was clear that a preponderance standard applies and that *C.T.* did not address the issue. Consequently, the committee deleted the first paragraph of the committee note from CV2033 and CV2034. The committee revised the third sentence of CV2033 to read, "Punitive damages can be awarded to . . . ," rather than "are intended to." The committee revised the next part to read:

Punitive damages may be awarded if [name of plaintiff] has proved by a preponderance of the evidence that [name of defendant] operated or was in actual physical control of a vehicle within this state and any one of the following:

1. Had sufficient alcohol in [his][her] body that a subsequent chemical test showed that [he][she] had a blood or breath alcohol concentration of .08 grams or greater at the time of the test;
2. Had a blood or breath alcohol concentration of .08 grams or greater at the time of operation or actual physical control; or
3. Was under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that rendered [name of defendant] incapable of safely operating a vehicle.

On motion of Mr. Ferguson, the committee approved the instruction as revised.

7. *CV2034, Providing controlled substance.* The committee thought the statutory language was problematic, including such words as "chain of transfer." Dr. Di Paolo suggested adding a committee note saying that the committee thought the last subparagraph was confusing but left in "chain of transfer" but because it was the statutory language, and the committee was not sure what it meant. Mr. Ferguson thought that it was meant to get at the head of a drug distribution ring who may not have given the decedent the drugs personally. Ms. Blanch did not think a committee note was necessary. The committee revised CV2034 along the lines of its changes to CV2033 so that the first part of the instruction now reads:

In addition to compensatory damages, [name of plaintiff] also seeks to recover punitive damages against [name of defendant]. Punitive damages are not intended to compensate [name of plaintiff] for [his][her][its] loss. Punitive damages can be awarded to punish a wrongdoer for causing the drug-related death of another person.

Punitive damages may be awarded if [name of plaintiff] has proved by a preponderance of the evidence that [name of defendant]--

1. Provided or administered an illegal controlled substance to the deceased person in violation of the law; or
2. Provided an illegal controlled substance to any person in the chain of transfer connected directly to someone who subsequently provided or administered it to the person whose death was caused in whole or in part by the substance.

At Judge Harris's suggestion, the next two paragraphs were deleted. The statutory references are contained in the References at the end of the instruction. Mr. Simmons suggested deleting the brackets around the last paragraph, but the committee rejected the suggestion. On motion of Mr. Johnson, seconded by Judge Harris, the motion passed without opposition.

8. *Next Meeting.* The next meeting will be Monday, May 11, at 4:00 p.m.

The meeting concluded at 6:10 p.m.

# Tab 2

<u>Priority</u>	<u>Subject</u>	<u>Sub-C in place?</u>	<u>Sub-C Members</u>	<u>Projected Starting Month</u>	<u>Projected Finalizing Month</u>
1	Punitive Damages	Yes	Hoffman, Jeremy; Horvat, Steven; Humpherys, L. Rich; McGarry, Shawn; Schultz, Stuart; Slaugh, Leslie	In Progress	May-15
3	Civil Rights	Yes	Ferguson, Dennis (D); Mejia, John (P); Osburn, Summer (P); Plane, Margaret (D); Porter, Karra (P); White, Heather (D)	September-15	November-15
4	Directors and Officers Liability	Yes	Burbidge, Richard D.; Christiansen, Erik, Call, Monica; Gurmankin, Jay	November-15	January-16
9	Defamation	Yes	Dryer, Richard (Chair); Hoole, Roger; Hunt, Jeff; Reymann, David; Stevens Greg	February-16	April-16
5	Sales Contracts and Secured Transactions	Yes	Cox, Matt (chair); Boley, Matthew; Maudsley, Ade	May-16	September-16
2	Insurance	Yes	Barneck, Matthew; Belnap, Paul; Humpherys, L. Rich; Matthews, Paul H.; Olsen, David R.	In Progress	October-16
6	Trespass and Nuisance	Yes (more members needed)	Hancock, Cameron; Figueira, Joshua (researcher);		
7	Economic Interference	Yes (more members needed)	Frazier, Ryan (D) (Chair); Shelton, Ricky (D); Stevenson, David (P)		
8	Emotional Distress	Yes (more members needed)	Dunn, Mark (D)(Chair); Combe, Steve (D);		
10	Assault/False Arrest	Yes	Rice, Mitch (chair); Carter, Alyson; Wright, Andrew (D); Cutt, David (P)		
11	Wills/Probate	No	Kent Alderman		

# Tab 3

**Punitive Damages**

(1) 2026. Punitive damages – introduction. Instruction approved 06092014. Committee Notes (NEED APPROVAL-after Nancy’s edits). (NEW EDITS)..... 1

(2) 2027. Amount of punitive damages. Instruction approved 06092014. Committee Note approved 09082014..... 4

(3) 2028. Punitive damages and harm to other people. Instruction approved 03092015. .... 5

(4) 2029. Factors to consider in determining the amount of damages. Instruction approved 03092015. .... 6

(5) 2030. Reprehensibility. Instruction approved 03092015. .... 6

(6) 2031. Reprehensibility – Similar Conduct Toward Other People. Instruction approved 04132015. .... 7

(7) 2032. Reprehensibility—Conduct in other states. Instruction and committee note approved 03092015. .... 7

(8) 2033. Driving Under the Influence. Instruction approved 04132015..... 8

(9) 2034. Providing Controlled Substance. Instruction approved 04132015. .... 9

**(1) 2026. Punitive damages – introduction. Instruction approved 06092014.**

**Committee Notes (NEED APPROVAL-after Nancy’s edits). (NEW EDITS)**

In addition to compensatory damages, [name of plaintiff] also seeks to recover punitive damages against [name of defendant]. Punitive damages are intended to punish a wrongdoer for extraordinary misconduct and to discourage others from similar conduct. They are not intended to compensate [name of plaintiff] for [his][her][its] loss.

Punitive damages may only be awarded if [name of plaintiff] has proven by clear and convincing evidence that [name of defendant]’s conduct:

(1) was [willful and malicious]; or,

(2) was [intentionally fraudulent]; or,

(32) manifested a knowing and reckless indifference toward, and a disregard of, [name of plaintiff]’s rights.

“Knowing and reckless indifference” means that (a) [name of defendant] knew that such conduct would, in a high degree of probability, result in substantial harm [to another] [to property]; and (b) the conduct must be highly unreasonable conduct, or an extreme departure from ordinary care, in a situation where a high degree of danger or harm would be apparent to a reasonable person.

[The committee was unable to reach a working definition for “willful and malicious conduct.” For cases discussing these terms, please see committee note 1.]

[The committee was unable to reach a working definition for “intentionally fraudulent.” For cases discussing these terms, please see committee note 2.]

[Punitive damages are not awarded for mere inadvertence, mistakes, errors of judgment and the like, which constitute ordinary negligence.]

[Some of the questions on the Special Verdict form will ask if [name of plaintiff] has proved by clear and convincing evidence that [name of defendant]’s conduct (a) was [willful and malicious] [intentionally fraudulent], or (b) manifested a knowing and reckless indifference and disregard of [name of plaintiff]’s rights. If you answer “yes” to any of these questions, I will then give you further instructions.]

## References

Utah Code § 78B-8-201(a) (West 2014).

Westgate Resorts v Consumer Protection Group, LLC, 285 P.3d 1219, 1222-1223 (Utah 2012).

Daniels v. Gamma W. Brachytherapy, LLC, 2009 UT 66, 221 P.3d 256

State Farm Mut. Auto Ins. Co. v. Campbell, 538 U.S. 408, 416 (2003).

Hall v. Walmart Stores, Inc., 959 P.2d 109 (Utah 1998).

BMW of N. Am. Inc. v. Gore, 517 U.S. 559, 568 (1996).

Pacific Mut. Life Ins. Co. v. Haslip, 499 U.S. 1, 19-20 (1991).

Johnson v. Rogers, 763 P.2d 771, 773 (Utah 1988)

Gleave v. Denver & Rio Grande W. R. Co., 749 P.2d 660 (Utah Ct. App. 1988)

Biswell v. Duncan, 742 P.2d 80, 84 (Utah Ct. App. 1987)

Behrens v. Raleigh Hills Hospital, 675 P.2d 1179 (Utah 1983).

Bundy v. Century Equipment, Inc., 697 P.2d 754, 759 (Utah 1984).

### Committee Notes

1. 4. “Willful and Malicious” conduct” has not yet been well defined under Utah law, but several cases discuss it.— See *Johnson v. Rogers*, 763 P.2d 771 (Utah 1988), *Gleave v. Denver & Rio Grande W. R. Co.*, 749 P.2d 660 (Utah Ct. App. 1988), and *Biswell v. Duncan*, 742 P.2d 80, 84 (Utah Ct. App. 1987) (regarding malice), *State v. Larsen*, 865 P.2d 1355, 1358 (regarding 355, 1358a, and *Clayton v. Crossroads Equip. Co.*, 655 P.2d 1125 (Utah 1982) (regarding “willful or malicious” conduct (emphasis added)). See also *Chang v. Soldier Summit Development*, 1999 UT App 27; *Golding v. Ashley Cent. Irrigation Co.*, 793 P.2d 897, (regarding “willful misconduct” in non-punitive damages cases).

**Comment 1 Alternative:** “Willful and malicious” conduct has not yet been well defined under Utah law, but several cases discuss what it could mean. For example, *Gleave v. Denver & Rio Grande W. R. Co.*, 749 P.2d 660 (Utah Ct. App. 1988) discusses whether actual malice is required for punitive damages or whether implied malice is sufficient. See also *Johnson v. Rogers*, 763 P.2d 771 (Utah 1988) and *Biswell v. Duncan*, 742 P.2d 80, 84 (Utah Ct. App. 1987) (discussing whether actual malice is required). *Clayton v. Crossroads Equip. Co.*, 655 P.2d 1125 (Utah 1982) refers to non-Utah case law to define “willful or malicious” conduct (emphasis added). And *State v. Larsen*, 865 P.2d 1355, n. 3 (Utah 1993), discusses what “willful” means. In the non-punitive

damages context, *Chang v. Soldier Summit Development*, 1999 UT App 27 and *Golding v. Ashley Cent. Irrigation Co.*, 793 P.2d 897, discuss “willful misconduct”.

2. “Intentionally fraudulent” has not been defined by Utah case law. Counsel may review CV1801 (Elements of Fraud) and CV1809 (Intent) for a working definition and relevant case law.

32. The committee was divided on whether the last two paragraphs (in brackets) of this instruction should be given.

43. The statute requires bifurcation in all cases where punitive damages are sought at trial and evidence of wealth is introduced. The first phase will resolve the question of whether the plaintiff is entitled to punitive damages for the conduct alleged. If the jury determines that the plaintiff is so entitled, there will be a second phase. The second phase may include evidence of the defendant’s wealth or financial condition (Section 78B-8-201(2)), with the jury answering only the question of what amount of punitive damages to award.

54. The committee did not feel that there is adequate legal direction to determine which punitive damages instructions should be given in the first phase and which should be given if there is a second phase. However, one option would be for 2026 (and/or 2033 and 2034) to be read in the first phase, with the remainder to be read during any second phase.

**(2) 2027. Amount of punitive damages. Instruction approved 06092014. Committee Note approved 09082014.**

Now that you have decided to award punitive damages, you must determine the amount. Punitive damages should be the amount necessary to fulfill the two purposes of punitive damages, to punish past misconduct and to discourage future misconduct.

Your decision should not be arbitrary. The amount must be reasonable and bear some relationship to the [name of plaintiff]'s harm. Whether or not to award a specific amount or any amount of punitive damages is left entirely up to you.

### **References**

State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 426 (2003).

Cooper Indus., Inc. v. Leatherman Tool Group, Inc. 532 U.S. 424, 440-42 (2001).

BMW of N. Am., Inc. v. Gore, 517 U.S. 559, 580-83 (1996).

Crookston v. Fire Insurance Exchange, 817 P.2d 789, 811 (Utah 1991).

### **Committee Notes**

1. The Utah Supreme Court has opined regarding the ratios that apply in determining whether a punitive damage award is excessive. "The general rule to be drawn from our past cases appears to be that where the punitives are well below \$100,000, punitive damage awards beyond a 3 to 1 ratio to actual damages have seldom been upheld and that where the award is in excess of \$100,000, we have indicated some inclination to overturn awards having ratios of less than 3 to 1." *Crookston v. Fire Insurance Exchange*, 817 P.2d 789, 811 (Utah 1991).

The Crookston Court did not provide guidance on whether the presumptive ratios should be disclosed to the jury. The case law regarding presumptive ratios has been in the context of post-verdict motions addressed to the judge, and the committee felt that it did not provide guidance with regard to whether the ratio should be disclosed to the jury.

### **(3) 2028. Punitive damages and harm to other people. Instruction approved**

#### **03092015.**

In determining the amount of punitive damages, you may award punitive damages for the purpose of punishing [name of defendant] only for [harm] [attempted harm] [damage] to [name of plaintiff]. You may not award punitive damages for the purpose of punishing harm or attempted harm to other people.

**References:**

Westgate Resorts v Consumer Protection Group, LLC, 285 P.3d 1219, 1222-1223 (Utah 2012).

**(4) 2029. Factors to consider in determining the amount of damages. Instruction approved 03092015.**

In determining the amount of damages, you may also consider any evidence regarding the following: (1) the wealth or financial condition of [name of defendant]; (2) the nature of the alleged misconduct; (3) the facts and circumstances surrounding such conduct; (4) the effect of [name of defendant]'s conduct on [name of plaintiff]; (5) the probability of future reoccurrence of the misconduct toward [name of plaintiff] or others; (6) the relationship of the parties; and (7) the amount of compensatory damages awarded.

**References**

Crookston v. Fire Insurance Exchange, 817 P.2d 789, 811 (Utah 1991). The “harm to others” Crookston factor number 4 has been modified. Outside conduct or harm to others may now only be used to assess reprehensibility. See Westgate Resorts v Consumer Protection Group, LLC, 285 P.3d 1219, 1222-1223 (Utah 2012).

**(5) 2030. Reprehensibility. Instruction approved 03092015.**

In determining the amount of punitive damages that should be awarded, you should consider the reprehensibility of [name of defendant]'s conduct. Greater reprehensibility may justify a higher punitive damage award while lesser reprehensibility may justify a lower amount.

**References**

Westgate Resorts v Consumer Protection Group, LLC, 285 P.3d 1219, 1222-1223 (Utah 2012).

Philip Morris v. Williams, 549 U.S. 346 (2007)

**(6) 2031. Reprehensibility – Similar Conduct Toward Other People. Instruction approved 04132015.**

When determining the degree of reprehensibility, you may consider evidence of similar conduct by [name of defendant] toward other people who are not in this lawsuit; however, I caution you that this evidence is to be considered only to determine reprehensibility. The actual harm to other people is not the measure of punitive damages in this case.

**References**

*Westgate Resorts v Consumer Protection Group, LLC*, 285 P.3d 1219, 1222-1223 (Utah 2012).

Philip Morris v. Williams, 549 U.S. 346 (2007)

**(7) 2032. Reprehensibility—Conduct in other states. Instruction and committee note approved 03092015.**

Evidence that [name of defendant] committed the same or similar conduct outside of Utah may not be considered to increase the level of reprehensibility if the conduct was legal when and where it was committed.

**References**

*Westgate Resorts v Consumer Protection Group, LLC*, 285 P.3d 1219, 1222-1223 (Utah 2012).

*State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 423 (2003) .

*BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 570-75 & 585 (1996).

**Committee Notes**

1. This instruction should be used only in cases where the plaintiff asserts that the defendant's conduct is more reprehensible because it has occurred in other states and the defendant then responds that the conduct is legal in other states.

**(8) 2033. Driving Under the Influence. Instruction approved 04132015.**

In addition to compensatory damages, [name of plaintiff] also seeks to recover punitive damages against [name of defendant]. Punitive damages are not intended to compensate [name of plaintiff] for [his][her][its] loss. Punitive damages can be awarded to punish a wrongdoer for driving [a motor vehicle or motorboat] while voluntarily intoxicated or under the influence of any drug or a combination of alcohol and drugs in violation of the law.

Punitive damages may be awarded if [name of plaintiff] has proven by a preponderance of the evidence that [name of defendant] was operating or in actual physical control of a vehicle within this state and any one of the following:

- (1) had sufficient alcohol in [his][her] body that a subsequent chemical test shows that [he][she] has a blood or breath alcohol concentration of .08 grams or greater at the time of the test; or
- (2) had a blood or breath alcohol concentration of .08 grams or greater at the time of operation or actual physical control; or
- (3) was under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that rendered the person incapable of safely operating a vehicle.

[There is a question on the Special Verdict form whether [name of plaintiff] has proved by a preponderance of the evidence that [name of defendant] violated the above law. If you answer "yes" to this question, I will then give you further instructions regarding punitive damages.]

## References

Utah Code § 78B-8-201(b)(i).

Utah Code § 41-6a-502.

C.T. ex rel. Taylor v. Johnson, 1999 UT 35, 977 P.2d 479

### **(9) 2034. Providing Controlled Substance. Instruction approved 04132015.**

In addition to compensatory damages, [name of plaintiff] also seeks to recover punitive damages against [name of defendant]. Punitive damages are not intended to compensate [name of plaintiff] for [his][her][its] loss. Punitive damages can be awarded to punish a wrongdoer for causing the drug-related death of another person.

Punitive damages may be awarded if [name of plaintiff] has proven by a preponderance of the evidence that [name of defendant]

- 1) provided or administered an illegal controlled substance to the deceased person in violation of the law; or
- 2) provided an illegal controlled substance to any person in the chain of transfer connected directly to someone who subsequently provided or administered the substance to the person whose death was caused in whole or in part by the substance.

[There is a question on the Special Verdict form whether [name of plaintiff] has proved by a preponderance of the evidence that [name of defendant] violated this law. If you answer “yes” to this question, I will then give you further instructions regarding punitive damages.]

## References

Utah Code § 78B-8-201(b)(ii) and (iii).

Utah Code § 78B-3-801.

Utah Code § 58-37-1, et. Seq.

C.T. ex rel. Taylor v. Johnson, 1999 UT 35, 977 P.2d 479

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