G | P
Grand Park Law Group
A Professional Corporation

Westside Towers
11835 W. Olympic Boulevard #870E
Los Angeles, California 90064

O:+1 888.629.4754
F: +1 310.900.0805

INSIGHT · PERSONAL INJURY

# Punitive Damages Under Civil Code § 3294: When California Personal Injury Plaintiffs Can Reach Them

Grand Park Law Group · November 7, 2026 · 7 min read



*A California punitive damages award requires clear and convincing proof of oppression, fraud, or malice, and a record of the defendant's finances.*

Punitive damages in a California tort case rest on one statute, Civil Code section 3294, and on a short line of decisions that govern proof, procedure, and constitutional limits. This memorandum states the elements, the procedural screens, and the review standards as of November 2026.

## I. Question Presented

When may a California personal injury plaintiff recover punitive damages, and what must be proved, and when, to obtain and keep such an award?

## II. Short Answer

The plaintiff must prove **by clear and convincing evidence** that the defendant was guilty of oppression, fraud, or malice. (Civ. Code, § 3294, subd. (a).) Against a corporate employer, the culpable knowledge, authorization, ratification, or conduct must be that of an **officer, director, or managing agent**. (*Id.*, subd. (b).) The plaintiff must also introduce **meaningful evidence of the defendant's financial condition**, or the award will not survive appeal. Discovery of that evidence requires a court order. Claims against health care providers for professional negligence require leave of court before punitive damages may be pleaded. Any award remains subject to federal due process review.

## III. Governing Law

### A. Civil Code Section 3294

Civil Code section 3294, subdivision (a), permits damages "for the sake of example and by way of punishing the defendant" in an action for breach of an obligation "not arising from contract," where the plaintiff proves oppression, fraud, or malice by clear and convincing evidence. Subdivision (c) defines the three grounds:

- **Malice:** conduct "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." (Civ. Code, § 3294, subd. (c)(1).)
- **Oppression:** "despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights." (*Id.*, subd. (c)(2).)
- **Fraud:** an intentional misrepresentation, deceit, or concealment of a known material fact, intended to deprive a person of property or legal rights or otherwise cause injury. (*Id.*, subd. (c)(3).)

Subdivision (d) permits punitive damages in a wrongful death action where the death resulted from a homicide for which the defendant was convicted of a felony.

### B. "Despicable"

In *College Hospital Inc. v. Superior Court* (1994) 8 Cal.4th 704, the Supreme Court noted that the word "despicable" was added by the 1987 amendments and read it in its ordinary sense, describing conduct that is "base," "vile," or "contemptible." (*Id.* at p. 725.)

### C. Employer Liability

An employer is not liable for punitive damages based on an employee's acts unless the employer (1) had advance knowledge of the employee's unfitness and employed the employee "with a conscious disregard of the rights or safety of others," (2) authorized or ratified the wrongful conduct, or (3) was personally guilty of oppression, fraud, or malice. For a corporation, that knowledge or conduct "must be on the part of an officer, director, or managing agent of the corporation." (Civ. Code, § 3294, subd. (b).)

In *White v. Ultramar, Inc.* (1999) 21 Cal.4th 563, the Court held that managing agents are employees who exercise "substantial discretionary authority over decisions that ultimately determine corporate policy." (*Id.* at p. 573.) Supervisory status and the power to hire and fire are not enough by themselves. Applying that test, the Court found that a zone manager responsible for eight stores and at least 65 employees qualified, and it affirmed the punitive award.


| Beverly Hills • San Francisco • San Diego • Chicago |
| Main: (888) 629-GPLG (4754) • Fax: (310) 900-0805 • www.GrandParkLawGroup.com |

## IV. Analysis

### A. Conscious Disregard in Injury Cases: Intoxicated Driving

Most personal injury cases rest on the second branch of malice: willful and conscious disregard of safety. *Taylor v. Superior Court* (1979) 24 Cal.3d 890 held that "a conscious disregard of the safety of others may constitute malice within the meaning of section 3294." (*Id.* at p. 895.) The plaintiff must show the defendant "was aware of the probable dangerous consequences of his conduct". (*Id.* at pp. 895-896.) The Court concluded that a person who voluntarily begins and continues drinking to the point of intoxication, knowing he must later drive, may be found to act with that disregard. (*Id.* at pp. 896-897, 899.) The complaint there alleged a driver with a history of drunk-driving arrests and convictions, but the Court stated that such history was not essential to the claim. It issued a writ directing the trial court to overrule the demurrer.

*Taylor* was decided before the 1987 amendments that added "despicable" and "willful" to the definition of malice. Counsel relying on it should plead and prove facts that meet the current statutory language.

### B. Financial Condition Evidence

*Adams v. Murakami* (1991) 54 Cal.3d 105 holds that a punitive award "cannot be sustained on appeal unless the trial record contains meaningful evidence of the defendant's financial condition." (*Id.* at p. 109.) The burden is the plaintiff's: "a plaintiff who seeks to recover punitive damages must bear the burden of establishing the defendant's financial condition." (*Id.* at p. 123.) In *Adams*, a $750,000 punitive award against a physician was reversed because neither side offered evidence of his finances.

### C. Procedure Under Section 3295

Civil Code section 3295 controls how that evidence is obtained and presented:

- **Discovery.** No pretrial discovery of the defendant's profits or financial condition is permitted without a court order. The court may grant one on a motion supported by appropriate affidavits if the plaintiff shows "a substantial probability that the plaintiff will prevail on the claim." The order is not a determination on the merits and may not be given in evidence or referred to at trial. (Civ. Code, § 3295, subd. (c).)
- **Protective order.** For good cause, the court may require a prima facie showing of liability under section 3294 before financial evidence is introduced. (*Id.*, subd. (a).)
- **Bifurcation.** On the defendant's application, evidence of profits or financial condition is excluded "until after the trier of fact returns a verdict" awarding actual damages and finding malice, oppression, or fraud. The same trier of fact then hears the evidence. (*Id.*, subd. (d).)

Read together with *Adams*, these provisions mean the plaintiff must obtain a discovery order early enough to develop financial evidence for the second phase.


| Beverly Hills • San Francisco • San Diego • Chicago |
| Main: (888) 629-GPLG (4754) • Fax: (310) 900-0805 • www.GrandParkLawGroup.com |

### D. Health Care Providers: Code of Civil Procedure Section 425.13

In an action "arising out of the professional negligence of a health care provider," no punitive damages claim may be pleaded unless the court enters an order allowing an amended pleading. The plaintiff must show, on supporting and opposing affidavits, "a substantial probability that the plaintiff will prevail on the claim." (Code Civ. Proc., § 425.13, subd. (a).) The motion must be filed "within two years after the complaint or initial pleading is filed or not less than nine months before the date the matter is first set for trial, whichever is earlier." (*Ibid.*)

*College Hospital* construed "substantial probability" to require a "legally sufficient claim which is 'substantiated,'" supported by competent, admissible evidence. The trial court does not weigh the merits. (8 Cal.4th at p. 719.)

### E. Constitutional Review

Federal due process limits the amount. *BMW of North America, Inc. v. Gore*, 517 U.S. 559, 574-575 (1996), set three guideposts: the degree of reprehensibility, the ratio between harm and the award, and comparable civil penalties. *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408, 418 (2003), restated those guideposts. It called reprehensibility "the most important indicium of the reasonableness of a punitive damages award." *Id.* at 419 (quoting *Gore*, 517 U.S. at 575). It declined to set a bright-line ratio but observed that "few awards exceeding a single-digit ratio between punitive and compensatory damages, to a significant degree, will satisfy due process." *Id.* at 425.

## V. Practical Considerations

- **Plead facts, not labels.** The complaint should allege facts showing intent to injure or knowing disregard of a probable danger, measured against the "despicable" standard described in *College Hospital*.
- **Corporate defendants.** Identify early which officer, director, or managing agent knew of, authorized, ratified, or committed the conduct. *White* turns on actual authority over corporate policy, not job title.
- **Financial evidence.** Move under section 3295, subdivision (c), in time to complete discovery. Without meaningful evidence of financial condition, an award is vulnerable under *Adams*.
- **Medical defendants.** Calendar the section 425.13 deadline from the filing date of the complaint and from the first trial setting. The earlier date controls.
- **Ratio.** Evaluate exposure against *Gore* and *Campbell*. An award above a single-digit ratio will face close review under *Campbell*.
- **Contract claims.** Section 3294 does not reach an obligation arising from contract. A tort theory is required.

## VI. Authorities Cited

- *Adams v. Murakami* (1991) 54 Cal.3d 105
- *College Hospital Inc. v. Superior Court* (1994) 8 Cal.4th 704


| Beverly Hills • San Francisco • San Diego • Chicago |
| Main: (888) 629-GPLG (4754) • Fax: (310) 900-0805 • www.GrandParkLawGroup.com |

- *Taylor v. Superior Court* (1979) 24 Cal.3d 890
- *White v. Ultramar, Inc.* (1999) 21 Cal.4th 563
- *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996)
- *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003)
- Civ. Code, § 3294
- Civ. Code, § 3295
- Code Civ. Proc., § 425.13

---

| | |
|---|---|
| Practice | Personal Injury |
| Topics | Punitive Damages · Civil Code 3294 |
| Publication | Personal Injury · November 7, 2026 |

Available online at grandparklawgroup.com/insights/articles/punitive-damages-section-3294-california-personal-injury.
This publication is provided for general information and is not legal advice.
© 2026 Grand Park Law Group, A.P.C. Attorney Advertising.