**16.07 DEFAMATION – DAMAGES**

[Actual Damages]

The plaintiff is entitled to recover damages in the following categories if [he] [she] proves that the defendant’s wrongful conduct was a substantial factor in causing them:

1. harm to the plaintiff’s property, business, trade, profession, or occupation;
2. expenses the plaintiff had to pay as a result of the defamatory statements;
3. harm to the plaintiff’s reputation; and
4. shame, mortification, or hurt feelings.

[Assumed Damages]

Even if the plaintiff has not proved any actual damages for harm to reputation or shame, mortification, or hurt feelings, the law assumes that the plaintiff suffered this harm. If you return a verdict for the plaintiff, the plaintiff is entitled to compensation for these damages in whatever amount you believe is reasonable. You must award at least a nominal amount.

Use Note

A plaintiff is entitled to recover both actual and assumed damages for defamation per se. The paragraph on assumed damages should not be given if the plaintiff alleges only defamation per quod. If the plaintiff also seeks to recover punitive damages, Instructions 20.20A, 20.20B, and 20.20C should also be given.

Comment

When the plaintiff proves a claim for defamation per se, the plaintiff is entitled to recover general damages for harm to reputation without any proof of damages (sometimes described as “presumed damages” or “assumed damages”). *MacDonald v. Riggs*, 166 P.3d 12, 18-19 (Alaska 2007). *See also* *City of Fairbanks v. Rice*, 20 P.3d 1097, 1107 (Alaska 2000); *Alaska Statebank v. Fairco*, 674 P.2d 288, 295 (Alaska 1983). For a discussion regarding “per se” defamation under Alaska law, see the Comment to Instruction 16.01.

In all other defamation cases, the plaintiff may recover economic and noneconomic losses, but damages are not presumed and must be supported by evidence.

The Alaska Supreme Court has not addressed whether defamation claims are actions for “personal injury” for purposes of AS 09.17.010.