

§ 22. Dignitary Harm

(a) A plaintiff who establishes a defendant's liability for a tort that causes dignitary harm may recover reasonable compensation for:

(1) dignitary harm if the factfinder infers significant dignitary harm and its value from the facts and circumstances of the tort itself;

(2) emotional harm under the rules in §§ 20 and 21;

(3) harm to reputation or loss of privacy under the rules in Restatement Third, Torts: Defamation and Privacy § ___; and

(4) any other harms caused by the tort, such as lost earnings or earning capacity (§ 18), lost profits (§ 33), or medical expenses (§ 19).

(b) Plaintiff may rely on inferences of dignitary harm from the facts and circumstances under Subsection (a)(1) and also offer direct evidence of emotional or reputational harm under Subsections (a)(2) and (a)(3). Factfinders may consider both types of evidence and make a single award for emotional and dignitary harm. But factfinders generally should not make separate awards for emotional harm and inferred dignitary harm.

(c) Damages awarded under this Section must be compensatory and not punitive. The amount of damages awarded under Subsection (a)(1), (a)(2), or (a)(3) may be examined by a reviewing court only for gross excessiveness or gross inadequacy under § 17. The amount of damages awarded under Subsection (a)(4) is subject to review under § 17 and also must be proved with reasonable certainty under the standards in § 5.

(d) A plaintiff who establishes a defendant's liability for a tort that causes dignitary harm but who does not prove damages under Subsection (a) is entitled to nominal damages under § 38.