### IDJI 4.86.1 – Punitive damage elements – general case

INSTRUCTION NO. \_\_\_\_\_

If you find by clear and convincing evidence that the defendant knew the defamatory information was false, or acted with reckless disregard for its truth, at the time of the communication of the information to another, you may consider the issue of punitive damages;

Comments:

Please see Instruction 9.20 for additional elements of punitive damages.

Gertz v. Robert Welch, Inc., 418 U.S. 3223, 94 S.Ct. 2997, 41 L.Ed.2d 789 (1974); Wiemer v. Rankin, 117 Idaho 566, 790 P.2d 347 (1990). This instruction incorporates the constitutional requirements of defamation cases to the punitive damage standard in Idaho.

NOTE: This applies to defamation cases brought by a private figure against a media defendant in a case involving matters of public concern. The issue of whether the allegedly defamatory communication involves a matter of public concern is a question of law for the court.