

202 BURDEN OF PROOF: ORDINARY: COMPENSATORY DAMAGES

In considering the amount to be inserted by you in answer to each damage question, the burden rests upon each person claiming damages to convince you by the greater weight of the credible evidence, to a reasonable certainty, that the person sustained damages (with respect to the element or elements mentioned in the question) and the amount of the damages.

The amount you insert should reasonably compensate the person named in the question for the damages from the (accident) (occurrence.)

COMMENT

The instruction was approved in 2000. An editorial correction was made in 2004.

Ellsworth v. Schelbrock, 2000 WI 63, ¶17, 235 Wis.2d 678, 689, 611 N.W.2d 764. See also Sufferling v. Heyl & Patterson, 139 Wis. 510, 517-18, 121 N.W. 251 (1909). See also Smee v. Checker Cab Co., 1 Wis.2d 202, 83 N.W.2d 492 (1957), and Maslow Cooperage Corp. v. Weeks Pickle Co., 270 Wis. 179, 191, 70 N.W.2d 577, 583 (1955).

See also Wis JI-Civil 1700, Damages: General.