

HB 1393

2014

1 A bill to be entitled

2 An act relating to punitive damages; amending s.
3 768.73, F.S.; providing that provisions relating to
4 punitive damages apply to all civil actions in which
5 judgment has not been entered, regardless of when the
6 cause of action arose; providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Section 768.73, Florida Statutes, is amended to
11 read:

12 768.73 Punitive damages; limitation.—

13 (1) (a) Except as provided in paragraphs (b) and (c), an
14 award of punitive damages may not exceed the greater of:

15 1. Three times the amount of compensatory damages awarded
16 to each claimant entitled thereto, consistent with the remaining
17 provisions of this section; or

18 2. The sum of \$500,000.

19 (b) Where the fact finder determines that the wrongful
20 conduct proven under this section was motivated solely by
21 unreasonable financial gain and determines that the unreasonably
22 dangerous nature of the conduct, together with the high
23 likelihood of injury resulting from the conduct, was actually
24 known by the managing agent, director, officer, or other person
25 responsible for making policy decisions on behalf of the
26 defendant, it may award an amount of punitive damages not to

27 exceed the greater of:

28 1. Four times the amount of compensatory damages awarded
29 to each claimant entitled thereto, consistent with the remaining
30 provisions of this section; or

31 2. The sum of \$2 million.

32 (c) Where the fact finder determines that at the time of
33 injury the defendant had a specific intent to harm the claimant
34 and determines that the defendant's conduct did in fact harm the
35 claimant, there shall be no cap on punitive damages.

36 (d) This subsection is not intended to prohibit an
37 appropriate court from exercising its jurisdiction under s.
38 768.74 in determining the reasonableness of an award of punitive
39 damages that is less than three times the amount of compensatory
40 damages.

41 (2) (a) Except as provided in paragraph (b), punitive
42 damages may not be awarded against a defendant in a civil action
43 if that defendant establishes, before trial, that punitive
44 damages have previously been awarded against that defendant in a
45 ~~any~~ state or federal court in an ~~any~~ action alleging harm from
46 the same act or single course of conduct for which the claimant
47 seeks compensatory damages. For purposes of a civil action, the
48 term "the same act or single course of conduct" includes acts
49 resulting in the same manufacturing defects, acts resulting in
50 the same defects in design, or failure to warn of the same
51 hazards, with respect to similar units of a product.

52 (b) In subsequent civil actions involving the same act or

53 single course of conduct for which punitive damages have already
54 been awarded, if the court determines by clear and convincing
55 evidence that the amount of prior punitive damages awarded was
56 insufficient to punish that defendant's behavior, the court may
57 permit a jury to consider an award of subsequent punitive
58 damages. In permitting a jury to consider awarding subsequent
59 punitive damages, the court shall make specific findings of fact
60 in the record to support its conclusion. In addition, the court
61 may consider whether the defendant's act or course of conduct
62 has ceased. Any subsequent punitive damage awards must be
63 reduced by the amount of any earlier punitive damage awards
64 rendered in state or federal court.

65 (3) The claimant attorney ~~attorney's~~ fees, if payable from
66 the judgment, are, to the extent that the fees are based on the
67 punitive damages, calculated based on the final judgment for
68 punitive damages. This subsection does not limit the payment of
69 attorney ~~attorney's~~ fees based upon an award of damages other
70 than punitive damages.

71 (4) The jury may neither be instructed nor informed as to
72 the provisions of this section.

73 (5) ~~The provisions of~~ This section shall be applied to all
74 civil actions in which judgment has not been entered, regardless
75 of when the cause of action arose ~~causes of action arising after~~
76 ~~the effective date of this act.~~

77 Section 2. This act shall take effect upon becoming a law.