

**TITLE 8
DAMAGES
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**TITLE 8
DAMAGES**

**CHAPTER 8.01
General Provisions**

8.0101 Measure; General rule.

For any injury to person or property, the measure of damages, except where otherwise expressly provided by this Code, is the amount which will compensate for all detriment proximately caused thereby, whether it could have been anticipated or not.

8.0102 Exemplary (punitive) damages.

In any action for injury to person or property, where the defendant has been guilty of oppression, fraud, malice, actual or presumed, or in any case of wrongful injury to animals committed intentionally or by willful and wanton misconduct, the jury, in addition to the actual damage, may give damages for the sake of example and by way of punishing the defendant.

8.0103 Assault.

The damages recoverable for assault are those for the plaintiff's mental or physical injury, or both. The establishment of the cause of action, without proof of harm, entitles the plaintiff to recover at least nominal damages.

8.0104 Battery.

Proof of contact with the plaintiff's person entitles him to recover at least nominal damages. The establishment of this cause of action entitles him also to compensation for the mental disturbance inflicted upon him as well as for any physical harm that may arise.

8.0105 False imprisonment.

A false imprisonment establishes a cause of action for at least nominal damages. The plaintiff may also recover any other damages that he can show were proximately caused by the false imprisonment.

8.0106 Trespass to land.

1. Where a person is entitled to a judgment for harm to land resulting from an unlawful invasion and not amounting to a total destruction in value and damages at the plaintiff's election include compensation for:
 - a. the difference between the value of the land before the harm and the value after the harm or the cost of restoration which has been or reasonably may be incurred, or if a separable portion of the land has been damaged, the loss in its value; and
 - b. the loss of use of the land; and
 - c. discomfort and annoyance, in an action brought by the occupant;
2. The damages for past and prospective invasions of land include all detriment to the land past, present or future caused by such trespass.

8.0107 Trespass to personal property.

Where a person is entitled to a judgment for harm to personal property not amounting to a total destruction in value, the damages include compensation for:

1. The difference between the value of the personal property before the harm and the value after the harm or, at the plaintiff's election, the reasonable cost of repair or restoration where feasible, with due allowance for any difference between the original value and the value after repairs; and

2. The loss of use which is the value of use during the period of detention or prevention, or the value of the use of or the amount paid for a substitute.

8.0108

Conversion.

1. Where a person is entitled to a judgment for the conversion of personal property, the damages include:
 - a. The market value of the property or the plaintiff's interest therein at the time and place of the conversion; and
 - b. The amount of any further loss suffered as a result of the deprivation; and
 - c. Interest at eight percent (8%) from the time at which the value is fixed or compensation for the loss of use.
2. The amount of damages for the conversion of personal property is diminished:
 - a. By its recovery or acceptance in kind by the plaintiff or by a person entitled to its possession; or
 - b. If the conversion was committed under a reasonable mistake of fact and the value of the personal property to the plaintiff is substantially unimpaired, by a continued offer to return it to the plaintiff or to his authorized representative.

8.0109

Seduction.

Where a person is entitled to recovery for seduction, the plaintiff may recover for all medical attendance, nursing and other expenses incident to the subsequent illness and confinement of a person seduced, and in all such actions the plaintiff may recover and not only actual but also punitive damages.