

TITLE 4: ECONOMIC RESOURCES
DIVISION 3: BUSINESSES AND PROFESSIONS

§ 3440. Proportionate Liability.

(a) This section applies to all causes of action of the type specified herein filed on or after the effective date.

(b) This section governs any claim for money damages brought against any accountant; or any accounting firm registered, licensed, or practicing in the CNMI; or any employee or principal of such firm by any person or entity claiming to have been injured as a result of the practice of public accountancy by the defendant accountant or other person or entity.

(c) No judgment for money damages may be entered against any accountant, firm, employee, or principal described in subsection (b) (collectively referred to in this subsection as the “accountant”) in an action covered by this section except in accordance with the provisions of this subsection.

(1) If the party seeking a judgment for damages against the accountant proves that the accountant acted with the deliberate intent to deceive, manipulate or defraud for the accountant’s own direct pecuniary benefit, the liability of the accountant shall be determined according to the principles that generally apply to such an action.

(2) If the accountant is not proven to have acted with the deliberate intent to deceive, manipulate or defraud for the accountant’s own direct pecuniary benefit, the amount of the accountant’s liability in damages shall be determined as follows:

(A) The trier of fact shall determine the percentage of responsibility of the plaintiff, of each of the defendants, and of each of the other persons or entities alleged by the parties to have caused or contributed to the harm alleged by the plaintiff. In determining the percentages of responsibility, the trier of fact shall consider both the nature of the conduct of each person and the nature and extent of the casual relationship between that conduct and the damage claimed by the plaintiff.

(B) The trier of fact shall next determine the total amount of damage suffered by the plaintiff caused in whole or in part by the plaintiff, the defendants, and other persons alleged to have caused or contributed to the damage.

(C) The trier of fact shall then multiply the percentage of responsibility of the account (determined under (A) by the total amount of damages (determined under (B) and shall enter a judgment or verdict against the accountant in an amount no greater than the product of those two factors.

(D) In no event shall the damages awarded against or paid by an accountant exceed the amount determined under (C). The accountant shall not be jointly liable on any judgment entered against any other party to the action.

Except where a contractual relationship permits, no defendant shall have a right to recover from an accountant any portion of the percentage of damages assessed against such other defendant.

Source: PL 13-52, § 21, modified.

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Commission Comment: The Commission made conforming changes to the above subsection pursuant to 1 CMC § 3806. The Commission did not, however, resolve the open parentheses in subsection (c)(2)(C) above. See the comment to 4 CMC § 3401 regarding PL 13-52. Additionally, it appears that in subsection (c)(2)(A), the authors of PL 13-52 meant “causal relationship” and not “casual relationship.”