

**Chapter 3****Defending Against Punitive Damages  
from the Answer Through the End of the Trial**

**Albert F. Sebok**  
**Brian J. Moore**  
**Robert O. Passmore**  
**Rena K. Seidler**  
*Jackson Kelly PLLC*  
**Charleston, West Virginia**

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**§ 3.01. Introduction.**

A thorough understanding of the complex issues surrounding punitive damages is frequently overlooked by attorneys early in a case, perhaps because counsel generally focuses first on liability. However, understanding punitive damages, and examining their applicability in any given case, is essential for a successful conclusion to the matter. Therefore, attentive litigators must consider all of the implications of a punitive damages claim, from responding to the complaint to the filing of post-trial motions.

**§ 3.02. Pleading.**

**[1] — Pleading Punitive Damages in the Complaint.**

**[a] — Federal Rule of Civil Procedure 8(a)(3).**

Rule 8(a)(3) of the Federal Rules of Civil Procedure dictates that “a pleading that states a claim for relief must contain . . . a demand for the relief sought, which may include relief in the alternative or different types of relief.” Unfortunately, this language does not clearly define the level of specificity required in pleading punitive damages. Thus, courts have been left with the