

1 **13-1014. Damages; mitigation - *No instruction submitted.***

2 *No instruction submitted.*

3 **Committee commentary.** — Previous uniform jury instructions contained an instruction  
4 authorizing the jury to consider several specific factors in determining whether to mitigate the  
5 amount of damages that would otherwise be awarded in a defamation action. UJI Civ. 10.22 (Repl.  
6 1980). There is no New Mexico precedent authorizing or compelling the use of such an instruction.  
7 *Id.* Committee commentary. The committee is of the opinion that such an instruction is no longer  
8 necessary. Several of the factors listed in the previous instruction focused on the defendant[']s  
9 reliance on a source of information. These are now an integral part of the determination of whether  
10 defendant acted wrongfully and is thus subject to any liability to the plaintiff. UJI 13-1009 NMRA.  
11 To repeat them as factors that could lead to mitigation of otherwise appropriate damages would  
12 unduly concentrate the jury[']s attention on those factors.  
13 In addition, the previous instruction listed apologies or retractions by the defendant as well as the  
14 prior bad reputation of the defendant as factors that might mitigate damages. UJI Civ. 10.22 (5)  
15 and (7) (Repl. 1980). These issues are relevant to the determination of the amount of actual  
16 damages suffered by the plaintiff to ~~his~~ plaintiff's reputation and thus are now an integral part of  
17 the initial determination of damages. Because presumed damages are no longer authorized, *see*  
18 UJI 13-1010 NMRA, there is no need to ask the jury to reduce the amount of damages otherwise  
19 recoverable because of these factors.  
20 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]