

1 **13-1820. Mitigation of damages to property.**

2 In fixing the amount of money which will reasonably and fairly compensate the plaintiff,
3 you are to consider that a person who is damaged must exercise ordinary care to minimize existing
4 damages and to prevent further damages. [~~Plaintiff~~] A plaintiff may not recover for losses which
5 could have been prevented by reasonable efforts on [~~his~~ ~~her~~] the plaintiff's part.

6 USE NOTES

7 This instruction is to be used with the applicable instruction on damage to property and is
8 to be inserted following the first paragraph of UJI 13-1802 NMRA.

9 This mitigation of damages instruction can apply both to personal property and real
10 property situations.

11 [As amended, effective November 1, 1991; as amended by Supreme Court Order No. S-1-RCR-
12 2025-00126, effective for all cases pending or filed on or after December 31, 2025.]

13 **Committee commentary.** — It is doubtful that an affirmative defense is necessary in order to
14 raise the issue of mitigation of damages. If the evidence justifies the submission, then the
15 instruction should be given to the jury.

16 The duty to mitigate damages to property is set forth in 22 Am. Jur. 2d Damages § 43.

17 Reference is made to the case of *Mitchell v. Jones*, 47 N.M. 169, 138 P.2d 522 (1943), as to the
18 manner of pleading mitigation.