

Introduction

The instructions in this chapter are for use in cases involving claims brought under the Unfair Practices Act, NMSA 1978, §§ 57-12-1 to -26 (1967, as amended through 2019) (UPA). The chapter begins with instructions that set forth the elements a plaintiff must prove in a UPA claim based on unfair or deceptive trade practices or unconscionable trade practices. Following the elements instructions are three definitional instructions to be used as appropriate to a given case. The final instruction addresses damages specific to UPA violations. The damages instruction is intended to encompass the concept of causation if the plaintiff is seeking actual damages. If other claims with other types of damages are at issue in a case, instructions specific to those categories of damages should also be given to the jury. *See, e.g.*, UJI 13-305 NMRA (Causation); Rule Set 13, Chapter 18 NMRA (Damages).

The instructions that should be given in a case involving UPA claims may not be entirely contained in this chapter. Instructions from other chapters should be used as appropriate. Further, practitioners may need to draft additional instructions or modify these instructions for individual cases. *See* Rule 1-051 NMRA; *Mac Tyres, Inc. v. Vigil*, 1979-NMSC-010, ¶ 17, 92 N.M. 446, 589 P.2d 1037 (stating that modified UJIs or non-UJIs may be given when no applicable instruction exists).

A sample set of jury instructions and a special verdict form in a hypothetical case involving UPA claims appear in the Appendix to this chapter. The example is meant to serve as a guide for assembling a set of instructions in a UPA case.

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[NEW MATERIAL]**

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