

13-2302. Wrongful discharge; implied contract to discharge only for cause.

In this case you must determine whether there was an implied agreement that _____ (*employee*) could be discharged only for cause. In order for there to be an implied agreement, there must be a promise, representation or conduct sufficiently specific to create a reasonable expectation in the mind of _____ (*employee*) that [he] [she] could be discharged only for cause. In determining whether there was an implied agreement, you may consider all the surrounding circumstances, including the parties' words and actions, [what they wanted to accomplish], [the way they dealt with each other], [how other employees in the same or similar circumstances were customarily dealt with by _____ (*employer*)] [and] [any writings, handbooks or procedures used by _____ (*employer*)].

[How other employees in the same or similar circumstances were customarily dealt with cannot by itself constitute sufficient evidence to establish an implied contract.] If such an agreement existed, and if _____'s (*employee's*) discharge violated that agreement, then the discharge was wrongful.

USE NOTES

The bracketed circumstances should be given when the evidence in the case permits. When this instruction is given, it should immediately follow UJI 13-2301 NMRA, and be given with UJI 13-2306 NMRA.

[Approved, effective January 1, 1999; as amended by Supreme Court Order No. 08-8300-012, effective June 13, 2008.]