

13-302D. Statement of factual contentions of defendant(s), causation and burden of proof.

To establish _____ (*theory of affirmative defense, e.g., excuse or justification, negligence of another, etc.*), the defendant(s) [has] [have] the burden of proving [at least one of] [each of] the following:

(NOTE: List by number each claimed act, omission, or condition, etc., referenced to the specific party or non-party, which is supported by substantial evidence and that remains at issue.)

To establish _____ (*theory of second affirmative defense by name*),

(NOTE: The format of the first paragraph is to be repeated for the contentions of all factually distinguishable affirmative defenses that remain at issue.)

The defendant(s) also say(s), and [has] [have] the burden of proving, that _____ (*negligence of plaintiff(s) [and] [or] negligence of others*) was a cause of the [injuries and] damages.

[As a counterclaim, the defendant(s) seek(s) compensation from the plaintiff(s) for damages which defendant(s) say(s) were caused by _____

(*theory of counterclaim by name*). To establish _____ (*theory of counterclaim by name*) on the part of [a] plaintiff(s), the defendant(s) [has] [have] the burden of proving [at least one of] [each of] the following:

(NOTE: List by number each claimed act, omission, or condition, etc., referenced to specific plaintiffs, which is supported by substantial evidence and that remains at issue.)

The defendant(s) also [has] [have] the burden of proving, that such _____ (*theory of counterclaim by name*) was a cause of the [injuries and] damages.]

The plaintiff(s) deny(ies) what defendant(s) say(s) [and plaintiff(s) say(s) that _____ (*theory of affirmative defense to counterclaim not already at issue under preceding claims*). To establish _____ (*theory of affirmative defense to counterclaim by name*) on the part of defendant(s), the plaintiff(s) [has] [have] the burden of proving _____].

USE NOTE

See the Use Note to UJI 13-302A NMRA. If there is an affirmative defense requiring proof of causation, in addition to negligence of the plaintiff [and] [or] others, it would be stated in the second regular paragraph of UJI 13-302D NMRA. [As amended, effective January 1, 1987; March 1, 2005.]