

**13-843. Contracts; measure of damages; general instruction.**

If you should decide in favor of \_\_\_\_\_ (*name of party asserting breach*) on [any of] [his] [her] [its] claim[s] of breach of contract, then you must fix the amount of money which will reasonably and fairly compensate \_\_\_\_\_ (*name of party asserting breach*) for damages that resulted from \_\_\_\_\_'s (*name of opposing party*) breach.

1. \_\_\_\_\_ (*name of party asserting breach*) seeks direct damages for the following:

(NOTE: Here insert the proper elements of direct damages.)

Direct damages are damages that arise naturally and necessarily as the result of the breach. The direct damages you award for breach of contract must be the amount of money that will place \_\_\_\_\_ (*name of party asserting breach*) in the position [he] [she] [it] would have been in if the contract had been performed.

[2. In addition to direct damages, \_\_\_\_\_ (*name of party asserting breach*) also seeks to recover damages for the following:

(NOTE: Here insert the proper elements of other categories of damages which may be sought, such as consequential or incidental damages.)]

Whether any of these elements of damages has been proved by the evidence is for you to determine. Your verdict must be based upon proof, and not upon speculation, guess, or conjecture.

Further, sympathy for a person, or prejudice against any party, should not affect your verdict and is not a proper basis for determining damages.

**USE NOTE**

This instruction provides the basic framework for all compensatory damages instructions in contracts cases. As drafted, this instruction is intended for use in common-law contracts cases.

The elements of damages should be customized to fit the facts and claims involved in the case. Part 1 of this instruction is intended to address direct contract damages (also called general damages). Part 2 of this instruction is intended to be used only if some of the damages being sought constitute consequential or incidental damages.

In Part 1 of the instruction, depending on the facts of the case, parties may need to draft the appropriate element(s) to be inserted. Elements of direct damages for cases involving construction contracts and personal employment contracts appear in this chapter. See UJI 13-850 NMRA (Damages to owner; contracts for construction); UJI 13-851 NMRA (Damages; personal employment).

In Part 2, if the court determines as a matter of law that any of the damages being sought constitute consequential damages, then UJI 13-843A NMRA should be inserted. Likewise, any appropriate elements of incidental damages should be inserted into Part 2.

If multiple parties are asserting claims, counterclaims, or cross-claims for breach of contract, then separate versions of UJI 13-843 NMRA should be given in connection with each party's claim.

If the party asserting breach is seeking punitive or nominal damages, then separate instructions for those damages should be given. An instruction for punitive damages in contract cases appears in this chapter. See UJI 13-861 NMRA. [Adopted, effective November 1, 1991; as amended by Supreme Court Order No.15-8300-005, effective for all cases filed or pending on or after December 31, 2015; as amended by Supreme Court Order No. 18-8300-013, effective for all cases pending or filed on or after December 31, 2018.]