**13-2404. Legal malpractice; breach of fiduciary duty.**

A lawyer has [a] fiduciary [duty][duties] to:

[have undivided loyalty to \_\_\_\_\_\_\_\_\_\_\_\_ (*name of plaintiff*);]

[treat \_\_\_\_\_\_\_\_\_\_\_\_ (*description of matters communicated by client and/or information regarding the representation*) as confidential;]

[ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*insert breach of any other applicable fiduciary duty to the case*)].

A lawyer who fails to do so breaches the fiduciary [duty][duties].

USE NOTES

This instruction should be used in a case in which an attorney’s breach of a fiduciary duty or duties is alleged to have caused injury or harm. The instruction should be given with additional instructions that explain the applicable fiduciary duty or duties. *See*, *e.g.*, UJI 13-2405 (Duty of confidentiality), UJI 13-2406 (Duty of loyalty); *see also* UJI 13-2411 (Rules of Professional Conduct).

If the case also involves a legal malpractice claim based on negligence, the instruction for that claim should be given. *See* UJI 13-2403 (Legal malpractice; negligence and standard of care).

[Adopted by Supreme Court Order No. 17-8300-013, effective for all cases pending or filed on or after December 31, 2017.]