

13-2502. Unconscionable trade practices; elements.

The Unfair Practices Act [also] prohibits unconscionable trade practices. For _____ (*name of plaintiff*) to prove that _____ (*name of defendant*) engaged in an unconscionable trade practice, _____ (*name of plaintiff*) must prove that:

1. _____ (*name of defendant*) [committed an act] [or] [engaged in a practice] [in connection with the sale, lease, rental, or loan of any goods or services] [in connection with the offering for sale, lease, rental, or loan of any goods or services] [in the extension of credit] [in the collection of debts], and

2. That [act] [or] [practice] [took advantage of _____'s (*name of plaintiff*) lack of knowledge, ability, experience, or capacity to a grossly unfair degree] [or] [resulted in a gross disparity between the value received by _____ (*name of plaintiff*) and the price paid].

[Conduct may be said to take advantage of a person's lack of knowledge, ability, experience, or capacity to a grossly unfair degree if the conduct was designed to take advantage of particular characteristics or vulnerabilities of the person and resulted in gross unfairness.]

[A gross disparity exists between value received and price paid if, considering the transaction between the parties, the value received by a person from the transaction is grossly disproportionate to what the person gave up in the transaction.]

USE NOTES

This UJI should be used when the plaintiff is alleging the defendant engaged in an unconscionable trade practice. The last two bracketed paragraphs are definitional and may be used when they would be helpful to the jury's understanding of "grossly unfair degree" and/or "gross disparity" in the circumstances of the case. It may be appropriate to draft other definitional instructions to assist the jury in evaluating the conduct at issue in the case.

[Adopted by Supreme Court Order No. 22-8300-001, effective for all cases pending or filed on or after February 21, 2022.]