

13-2506. Damages.

If you decide that _____ (*name of defendant*) violated the Unfair Practices Act, _____ (*name of plaintiff*) is entitled to recover the amount of money that will reasonably and fairly compensate _____ (*name of plaintiff*) for the following damages proved by _____ (*name of plaintiff*) to have resulted from the violation.

(insert brief description of elements of damages claimed).

Whether _____ (*name of plaintiff*) has proved any damages is for you to determine based on the evidence presented at trial.

_____ (*name of plaintiff*) is not required to prove damages as a result of the Unfair Practices Act violation in order to recover from _____ (*name of defendant*). If _____ (*name of plaintiff*) does not prove that _____ (*name of plaintiff*) suffered damages as a result of the Unfair Practices Act violation, the law requires the judge to award the plaintiff the sum of one hundred dollars (\$100) as a consequence of the violation.

USE NOTES

This instruction is to be used in all cases claiming damages for violation of the Unfair Practices Act (UPA). The elements of damages claimed by the plaintiff (*e.g.*, “the amount of money the plaintiff contributed to the defendant’s allegedly bogus charity”) should be included in the instruction if the court determines that the damages claimed are recoverable under the UPA and are supported by evidence. If the jury finds that the plaintiff’s damages are less than \$100 or that the plaintiff failed to prove any damages, the court must award the plaintiff \$100 as statutory damages. The court may award up to treble damages or three hundred dollars (\$300), whichever is greater, if the jury finds by special verdict that the defendant charged with an unfair or deceptive trade practice or an unconscionable trade practice has willfully engaged in the practice. See NMSA 1978, § 57-12-10(B) (2005); UJI 13-2505 NMRA.

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