

13-1424. Causation; products liability.

A defective product¹ is "a cause" of [injury] [harm] [_____ (other)] if[, unbroken by an independent intervening cause,²] it contributes to bringing about the [injury] [harm] [_____ (other)] [, and if the [injury] [harm] [_____ (other)] would not have occurred without it]. It need not be the only explanation for the [injury] [harm] [_____ (other)], nor the reason that is nearest in time or place. It is sufficient if it occurs in combination with some other cause to produce the result. To be a "cause," the defective product¹ must be reasonably connected as a significant link to the [injury] [harm] [_____ (other)].

USE NOTES

1. See UJIs 13-1406 and 13-1407 NMRA for a definition of "defective product."

2. The bracketed phrase referring to independent intervening cause and UJI 13-1424A NMRA will be used only if there is sufficient evidence of an independent intervening cause. *Torres v. El Paso Electric Co.*, 1999-NMSC-029, 127 N.M. 729, 987 P.2d 386, dramatically limits the application of independent intervening cause under New Mexico law. The phrase is to be used when there is an unforeseeable force, not in operation at the time the defendant acted, that is not a concurrent cause of the plaintiff's injury. *Chamberland v. Roswell Osteopathic Clinic, Inc.*, 2001-NMCA-045, 130 N.M. 532, 27 P.3d 1019. Independent intervening cause is not appropriate when a defendant is merely arguing lack of causation.

The applicable portions of this instruction must be used in all products liability cases. In an appropriate case, this instruction will be followed by UJI 13-1424A, 13-1425 or 13-1426 NMRA.

[As amended, effective March 1, 2005; as amended by Supreme Court Order No. 11-8300-003, effective March 21, 2011.]