

13-302A. Statement of theory(ies) for recovery.

In this case the plaintiff(s) _____ (*name of each plaintiff*) seek(s) compensation from the defendant(s) _____ (*name of each defendant*) for damages that plaintiff(s) say(s) were caused by _____ (negligence, [and]

A Defective Product, [and]

Breach of Warranty, [and]

Breach of Contract, [and]

Fraudulent Misrepresentation, [and]

Etc.)

USE NOTE

Combined with UJI 13-302B through 13-302E NMRA, this instruction will be used in most cases to introduce by name the theory or theories of recovery relied upon by plaintiff. The format recommended in UJI 13-302A through 13-302E NMRA should result in an instruction that (A) identifies each theory of recovery, and (B) states factual contentions, causation and burden of proof for each theory followed by (C) a statement of denials and affirmative defenses applicable to that theory and (D) a statement of the factual contentions, causation and burden of proof for each affirmative defense.

Any counterclaim should be stated in Part D, which also includes a statement of plaintiff(s)' denial of affirmative defenses or in reply to counterclaims.

Part E is a statement of other contentions and denials, causation and burden of proof, which do not constitute essential elements of a claim or defense, but which do constitute special issues, *e.g.*, vicarious liability for the proportionate responsibility of a co-defendant, punitive damages, etc., which will be submitted to the jury in the special verdict form.

[As amended, effective March 1, 2005.]