### IDJI 6.07.2 - Unjust enrichment – equitable theories

INSTRUCTION NO. \_\_\_

Even though there is no agreement between the parties, under certain circumstances where a party has been unjustly enriched by the actions of another the law will require that party to compensate the other for the unjust gain. To recover under this theory, the plaintiff has the burden of proving each of the following:

1. The plaintiff provided a benefit to the defendant;

2. The defendant accepted the benefit; and

3. Under the circumstances, it would be unjust for the defendant to retain the benefit without compensating the plaintiff for its value.

Comment:

For the elements of unjust enrichment, *see* Hertz v. Fiscus, 98 Idaho 456, 567 P.2d 1 (1977); Common Builder, Inc. v. Rice*,* 126 Idaho 616, 888 P.2d 790 (App. 1995).