**03.12A INJURY RESULTING FROM COMMISSION OF A CRIME**

The defendant claims that the plaintiff is not entitled to damages because the plaintiff was injured while committing a crime. The plaintiff was convicted of committing the crime of \_\_\_\_\_\_\_\_\_\_\_. You may not award damages to the plaintiff if:

(1) the defendant proves it is more likely true than not true that the plaintiff was injured while committing the crime; and

(2) the defendant proves by clear and convincing evidence that the plaintiff’s criminal conduct substantially contributed to the plaintiff’s injury.

An alleged fact is established by clear and convincing evidence if the evidence leads you to conclude that the alleged fact is highly probable. It is not necessary that the alleged fact be certainly true or true beyond a reasonable doubt or conclusively true. However, it is not enough to show that the alleged fact is more likely true than not true.

 Directions for Use

This instruction should only be used if the plaintiff has been convicted of a crime specified in AS 09.65.210(1) or (4). If the plaintiff was not convicted or was injured while fleeing after committing a crime or while being apprehended, Instruction 3.12B (Injury Resulting from Commission of a Crime-Without Conviction) should be used instead of this instruction.

Comment

*See* AS 09.65.210 (1) and (4).