**3028 CONTRACTS IMPLIED IN LAW (UNJUST ENRICHMENT)**

This case involves a claim based upon alleged unjust enrichment.

The elements of unjust enrichment are: (1) a benefit conferred upon the defendant by the plaintiff; (2) knowledge or appreciation of the benefit by the defendant; and (3) acceptance and retention by the defendant of such benefit under such circumstances that it would be unfair for him or her to retain it without paying the value thereof.

It is not necessary to prove that the recipient of the benefit was at fault or guilty of wrongdoing in any way, but it must be established that, as between the parties, it would be unfair for the recipient to retain the benefit without paying the reasonable value of the benefit.

A benefit to the defendant may be (services rendered for (defendant)) (goods or merchandise received by (defendant)) (improvements to (defendant)’s real estate) (money paid to (defendant) or someone else on (defendant)’s behalf).

A loss to the plaintiff without an actual benefit to the defendant is not recoverable as unjust enrichment.

If a person declines in advance a benefit to be conferred by another, then the person conferring the benefit may not recover for unjust enrichment.

[It is not a defense to the action that (defendant) is a minor or otherwise incompetent to make a contract, but a minor may show that in equity and good conscience, (plaintiff) is not entitled to recover in whole or in part.]

[In this case, (plaintiff) has alleged fault or wrongdoing on the part of (defendant) (fraud) (duress) (nonperformance or breach of contract), which is elsewhere in these instructions defined for you. The burden of proof is on (plaintiff) to establish wrongdoing by (defendant).]