**24.12C RESTITUTION BASED ON QUASI-CONTRACT OR IMPLIED CONTRACT**

[Plaintiff] claims that [defendant] received a financial benefit from [plaintiff] and that [defendant] should be required to compensate [plaintiff] for the value of this benefit.

In order to find in favor of [plaintiff] on this claim, you must find that each of the following elements is more likely true than not true:

1. [Plaintiff]’s conduct gave [defendant] a financial benefit;
2. [Defendant] realized that [he she it] had received a financial benefit as a result of [plaintiff]’s conduct, and accepted the benefit;
3. Under the circumstances, it would be unfair to allow [defendant] to keep the benefit without paying [plaintiff] for the value of the benefit.

If you find that each of these elements is more likely true than not true, you should award [plaintiff] an amount equal to the value of the benefit received by [defendant] as a result of [plaintiff]’s conduct.

**Use Note**

This instruction should be given when plaintiff asserts an implied contract/quasi-contractual claim for restitution.

**Comment**

Under Alaska law, a party may seek restitution under a theory of quasi-contract or implied contract. The elements of this claim are:

1. A benefit conferred upon the defendant by the plaintiff;
2. Appreciation by the defendant of such benefit; and
3. Acceptance and retention by the defendant of such benefit under such circumstances that it would be inequitable for him to retain it without paying the value thereof.

*ResQSoft, Inc. v. Protech Solutions, Inc.*, 488 P.3d 979, 989 (Alaska 2021)*; see also Bennett v. Artus,* 20 P.3d 560, 563 (Alaska 2001); *Brady v. State*, 965 P.2d 1, 14 (Alaska 1998); *Darling v. Standard Alaska Production Co*., 818 P.2d 677, 680 (Alaska 1991); *Alaska Sales & Service, Inc. v. Millet*, 735 P.2d 743, 746 (Alaska 1987). If these elements are satisfied, the remedy is an award that reflects the value of the benefit received by the recipient. *Bennett*, 20 P.3d at 564 & n. 20; *see also Krossa v. All Alaskan Seafoods, Inc*., 37 P.3d 411, 419 (Alaska 2001).

The concept of “appreciation” of the benefit refers to the recipient’s acknowledgement that he or she received a benefit. *Bennett*, 20 P.3d at 565 (citing *Alaska Sales*, 735 P.2d at 745).

The most significant requirement is that the enrichment must be unjust; that is, that the defendant received a true windfall or “something for nothing.” *ResQSoft,* 488 P.3d at 990; *Alaska Sales*, 735 P.2d at 746.

The claims described in this instruction are sometimes erroneously described as causes of action for unjust enrichment or restitution. Restitution and unjust enrichment are not causes of action. Restitution is a remedy, and unjust enrichment is a prerequisite to this remedy. *Alaska Sales*, 735 P.2d at 746.