

503.79 CONTRACTS—ISSUE OF COMMON LAW REMEDY—DAMAGES
MANDATE.

The plaintiff's damages are to be reasonably determined from the evidence presented.

The plaintiff is not required to prove with mathematical certainty the extent of the financial injury in order to recover damages. Thus, the plaintiff should not be denied damages simply because they cannot be calculated with exactness or a high degree of mathematical certainty. However, an award of damages must be based on evidence which shows the amount of the plaintiff's damages with reasonable certainty. You may not award any damages based upon mere speculation or conjecture.¹ [Additionally, the plaintiff is not entitled to recover twice for the same element of damages.]

Finally, as to the (*state number*) issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence the amount of damages sustained by the plaintiff by reason of the defendant's breach of contract, then it would be your duty to write that amount in the blank space provided.

If, on the other hand, you fail to so find, then it would be your duty to write a nominal amount such as "One Dollar" in the blank space provided.

1. "[A] party seeking recovery for losses occasioned by another's breach of contract need not prove the amount of his prospective damages with absolute certainty; a reasonable showing will suffice Substantial damages may be recovered, though plaintiff can only give his loss proximately." *Beroth Oil Co. v. Whiteheart*, 173 N.C. App. 89, 95, 618 S.E.2d 739, 744 (2005) (quoting *Pipkin v. Thomas & Hill, Inc.*, 298 N.C. 278, 287, 258 S.E.2d 778, 785 (1979)).