12.06 ASSAULT OR BATTERY — SELF-DEFENSE

In this case, the defendant claims [he][she] is not legally responsible for [assaulting] [improperly touching] the plaintiff because the defendant was acting in self-defense.

In order for the defendant to win on [his][her] claim of self-defense, you must decide that it is more likely true than not true that the following happened:

(1) The defendant reasonably believed [he][she] had to use force to protect [himself][herself] from a harmful or offensive touching; and

(2) The defendant used only the amount of force that a reasonable person would have deemed necessary under the circumstances.

[I will explain more about reasonable force in a moment.]

If you decide both of these statements are more likely true than not true, then the defendant acted in self-defense, and you must return a verdict for the defendant on this claim. Otherwise, the defendant did not act in self-defense.

**Use Note**

This instruction should be used with Instruction 12.01 or 12.02 if the defendant claims self‑defense as a defense to the assault or battery claim.

The bracketed sentence should be included only when either Instruction 12.07 or 12.08 is used.

**Comment**

Alaska has recognized the traditional common law defense of self-defense as an affirmative defense in assault or battery cases. *Merrill v. Faltin*, 430 P.2d 913, 918 nn.12 & 23 (Alaska 1967). Instruction 12.06 is consistent with the instructions set forth in *Merrill*, 430 P.2d at 918 nn.12 & 13. *See also* Restatement (Second) of Torts § 63.