

800.51 BATTERY.

The (*state number*) issue reads:

"Did the defendant commit a battery upon the plaintiff?"

On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, three things:<sup>1</sup>

First, that the defendant intentionally<sup>2</sup> caused bodily contact with the plaintiff.

Second, that such bodily contact [actually offended a reasonable sense of personal dignity] [caused physical pain or injury].<sup>3</sup>

And Third, that such bodily contact occurred without the plaintiff's consent.

Finally, as to this issue on which the plaintiff has the burden of proof, if you find, by the greater weight of the evidence, that the defendant intentionally caused bodily contact with the plaintiff, that such bodily contact was offensive or harmful to the plaintiff, and that bodily contact occurred without the plaintiff's consent, then it would be your duty to answer this issue "Yes" in favor of the plaintiff.

If, on the other hand, you fail to so find, then it would be your duty to answer this issue "No" in favor of the defendant.

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<sup>1</sup> *Andrews v. Peters*, 75 N.C. App. 252, 256, 330 S.E.2d 638, 640-41, *aff'd*, 318 N.C. 133, 347 S.E.2d 409 (1986).

<sup>2</sup> For an instruction on intent, see N.C.P.I.Civil 101.46.

<sup>3</sup> *Scott v. Kiker*, 59 N.C. App. 458, 463, 297 S.E.2d 142, 146 (1982).