

806.02 CONVERSION - DEFENSE OF SALE (OR EXCHANGE).

The (*state number*) issue reads:

"Did the plaintiff sell the (*name personal property*) to the defendant?"

On this issue the burden of proof is on the defendant. This means that the defendant must prove, by the greater weight of the evidence, that the plaintiff sold the (*name personal property*) to *him*.

A "sale" consists of the passing of ownership from the seller to the buyer for a price¹ or other valuable consideration.²

Finally, as to this issue on which the defendant has the burden of proof, if you find by the greater weight of the evidence that the plaintiff sold the (*name personal property*) to the defendant, then it would be your duty to answer this issue "Yes" in favor of the defendant.

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 plaintiff.

1. N.C. Gen. Stat. § 25-2-106(1) (Supp. 1994).

2. This charge would also cover barter, swaps, and exchanges. Where appropriate, "barter," "swap," or "exchange" can be used instead of "sale."