

807.00 WRONGFUL INTERFERENCE WITH CONTRACT RIGHT.

The (*state number*) issue reads:

"Did the defendant wrongfully interfere with a contract right between the plaintiff and (*name other party to contract*)?"

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, five things:<sup>1</sup>

First, that a valid contract right existed between the plaintiff and (*name other party to contract*).

Second, that the defendant had knowledge of the facts giving rise to the plaintiff's contract right with (*name other party to contract*). (It does not matter that the defendant was mistaken as to the legal significance of these facts or that the defendant believed that no contract right existed.<sup>2</sup>)

Third, that the defendant intentionally<sup>3</sup> induced (*name other party to contract*) [not to perform] [to alter adversely the performance of]<sup>4</sup> [not to renew]<sup>5</sup> [to terminate] the contract right to which the plaintiff was entitled.

Fourth, that the defendant acted without justification.<sup>6</sup>

And Fifth, that the defendant's actions resulted in actual damages to the plaintiff.

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, that the defendant wrongfully interfered with a contract right between the

plaintiff and (*name other party to contract*), 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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1. *Embree Constr. Group, Inc. v. Rafcor, Inc.*, 330 N.C. 487, 498, 411 S.E.2d 916, 924 (1992); *United Lab, Inc. v. Kuykendall*, 322 N.C. 643, 661, 370 S.E.2d 375, 387 (1988); *Peoples Sec. Life Ins. Co. v. Hooks*, 322 N.C. 216, 220, 367 S.E.2d 647, 649-50 (1988); *Wilson v. McClenny*, 262 N.C. 121, 132, 136 S.E.2d 569, 577-78 (1964); *Childress v. Abeles*, 240 N.C. 667, 674, 84 S.E.2d 176, 181-82 (1954); *Meehan v. Am. Media Int'l, LLC, et al.*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 712 S.E.2d 904, 914 (2011).

2. *United Lab., Inc.*, 322 N.C. at 663, 370 S.E.2d at 388.

3. For an instruction on intent, see N.C.P.I.-Civil 101.46.

4. See *Lexington Homes, Inc. v. W.E. Tyson Builders, Inc.*, 75 N.C. App. 404, 411, 331 S.E.2d 318, 322 (1985).

5. *Fitzgerald v. Wolf*, 40 N.C. App. 197, 199, 252 S.E.2d 523, 524 (1979) (*dictum*).

6. Whether a defendant acts without justification depends on the unique facts of each case. This element of the instruction should be supplemented upon presentation of appropriate requests for charge which explain the meaning of "without justification" within the context of and the facts in evidence in the case. Caution should be exercised in supplementing this element. For example, "[i]nterference with contract is justified if it is motivated by a legitimate business purpose, as when the plaintiff and the defendant, an outsider, are competitors." *Embree Constr. Group, Inc.*, 330 N.C. at 498, 411 S.E.2d at 924. However, there may be instances where, *because* the parties are competitors, certain acts of interference would not be justified. *United Labs., Inc. v. KuyKendall*, 335 N.C. 183, 185-88, 437 S.E.2d 374, 375-76 (1993).

Also note that where the defendant is an insider (*e.g.*, an officer, director, or shareholder of the corporation on which the interference was allegedly practiced), the acts of the insider "in inducing his company to sever contractual relations with a third party are presumed to have been done in the interest of the corporation." *Wilson*, 262 N.C. at 133, 136 S.E.2d at 578. However, this presumption may be overcome by evidence that the interference was performed for the insider's own interest or benefit and adverse to the interests of the company. *Embree Constr. Group*, 330 N.C. at 498-99, 411 S.E.2d at 924-25.