

814.00 BAILMENTS - ISSUE OF BAILMENT.

The (*state number*) issue reads:

"Did the plaintiff and the defendant enter into a bailment with respect to the plaintiff's (*describe property*)?"

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, four things:¹

First, that the plaintiff delivered *his* (*describe property*) to the defendant for (*describe purpose; e.g., repairs*).

Second, that the defendant voluntarily accepted the (*describe property*).

Third, that the defendant had exclusive possession and control of the (*describe property*).

Fourth, that the defendant was obligated to [account for] [return] the (*describe property*) when [the (*describe purpose; e.g., repairs*) were accomplished] [the plaintiff reclaimed it].

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 plaintiff and the defendant entered into a bailment with respect to the plaintiff's (*describe property*), 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.

1. *U.S. Helicopters, Inc. v. Black*, 318 N.C. 268, 272, 347 S.E.2d 431, 433 (1986);

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Freeman v. Meyers Automobile Service Co., Inc., 226 N.C. 736, 737-38, 40 S.E.2d 365,
366 (1946).