

501.50 CONTRACTS - ISSUE OF FORMATION - DEFENSE OF GROSSLY
INADEQUATE CONSIDERATION ("INTRINSIC FRAUD").

The (*state number*) issue reads:

Was the [price paid] [consideration given] to the defendant for entering into the contract with the plaintiff grossly inadequate?"

(You will answer this issue only if you have answered the (*state number*)¹ issue "Yes" in favor of the plaintiff.)

On this issue the burden of proof is on the defendant. This means the defendant must prove, by the greater weight of the evidence, that the [price paid] [consideration given] to the defendant for entering into the contract with the plaintiff was grossly inadequate² under the circumstances.³ To be grossly inadequate, the [price paid] [consideration given] must be so disproportionate to the value of what the defendant has given up under the contract that, under the same or similar circumstances, it would shock the conscience of a reasonable person.

Finally, as to the (*state number*) issue on which the defendant has the burden of proof, if you find by the greater weight of the evidence that the [price paid] [consideration given] to the defendant for entering into the contract with the plaintiff was grossly inadequate, 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. See N.C.P.I.-Civil 501.01 (Contracts-Issue of Formation).

2. A shockingly insufficient consideration will support a finding of grossly inadequate

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consideration (*i.e.*, intrinsic fraud) without other evidence. *Wall v. Ruffin*, 261 N.C. 720, 723, 136 S.E.2d 116, 118 (1964); *Garris v. Scott*, 246 N.C. 568, 575, 99 S.E.2d 750, 755 (1957); *Carland v. Allison*, 221 N.C. 120, 122, 19 S.E.2d 245, 246 (1942).

3. The permitted inference of fraud is rebuttable.