

741.25 WARRANTIES IN SALES OF GOODS - ISSUE OF EXISTENCE OF
IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

The (*state number*) issue reads:

"Did the defendant impliedly warrant to the plaintiff that the (*name good*) was fit for a particular purpose required by the plaintiff?"¹

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, two things:

First, that, at the time of contracting, the defendant had reason to know any particular purpose for which the (*name good*) was required by the plaintiff.²

Second, that, at the time of contracting, the defendant had reason to know that the plaintiff was relying on the defendant's skill or judgment to select or furnish a suitable (*name good*).³

Finally, as to this (*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 impliedly warranted to the plaintiff that the (*name good*) was fit for a particular purpose required by the plaintiff, 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. N.C. Gen. Stat. § 25-2-315 (1995).

2. *Id.*

3. *Id.*