

800.81 INVASION OF PRIVACY—USE OF UNMANNED AIRCRAFT SYSTEM—
PHOTOGRAPHS.

The (*state number*) issue reads:

“Did the defendant use an unmanned aircraft system to photograph the plaintiff without the plaintiff’s consent for the purpose of publishing or otherwise publicly disseminating the photograph(s)?”

On this issue the burden of proof is on the plaintiff. This mean that the plaintiff must prove, by the greater weight of the evidence, four things:

First, that the defendant used an unmanned aircraft system. [An unmanned aircraft system is an aircraft that is operated without the possibility of human intervention from within or on the aircraft as well as its associated elements. These elements include communication links and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system.]¹ [A drone is an unmanned aircraft system].

Second, that the defendant used an unmanned aircraft system to take [a] photograph(s) of the plaintiff.

Third, that the photograph(s) taken of the plaintiff [was] [were] without the plaintiff’s consent.

Fourth, that the defendant’s purpose in taking the photograph(s) was for publishing or otherwise publicly disseminating the photograph(s).²

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 used an unmanned aircraft system to photograph the plaintiff without the plaintiff’s consent for the purpose of publishing or otherwise

N.C.P.I.—Civil 800.81
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GENERAL CIVIL VOLUME
MARCH 2024
N.C.G.S. § 15A-300.1

disseminating the photograph(s), 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.G.S. § 15A-300.1(4) (defining unmanned aircraft and unmanned aircraft system).

2. N.C.G.S. § 15A-300.1(b)(2) does not apply to photographs taken for newsgathering, for newsworthy events, or in events or places to which the general public is invited. If facts supporting any of these situations are pled and evidence supporting these situations is presented at trial, then there may be an additional component to the fourth element for the jury to consider, or if the trial judge determines this is an affirmative defense, an additional issue for jury to consider upon which the defendant has the burden of proof.