

813.38 TRADE REGULATION - UNFAIR AND DECEPTIVE TRADE PRACTICES
- SIMULATION OF CHECKS AND INVOICES.

The (*state number*) issue reads:

"Did the defendant issue a writing which simulated or resembled [a negotiable instrument] [an invoice for [goods] [property] [services] which the plaintiff had not actually contracted for]?"

On this issue the burden of proof is on the plaintiff to prove, by the greater weight of the evidence, [two] [three] things:

First, that the defendant issued the (*state exhibit number*) to the plaintiff.

Second, that the (*state exhibit number*) simulates or resembles
[a negotiable instrument]¹

[an invoice for [goods] [property] [services]]

NOTE WELL: In simulated invoice cases, give this third element:

Third, that the defendant sought improper payment for such [goods] [property] [services] not actually contracted for by the plaintiff.

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 defendant issued (*state exhibit number*) to the plaintiff, that (*state exhibit number*) simulates or resembles [a negotiable instrument] [an invoice for [goods] [property] [services] (*give in simulated invoice cases:* and that the defendant sought improper payment for such [goods]

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[property] [services] not actually contracted for 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. For the elements of a negotiable instrument, see N.C. Gen. Stat. § 25-3-104.