

813.96 MISAPPROPRIATION OF TRADE SECRET - ISSUE OF CAUSATION.

The (*state number*) issue reads:

"Did the defendant's misappropriation of the plaintiff's trade secret [cause<sup>1</sup> economic loss to the plaintiff] [unjustly enrich the defendant]?"

You will answer this issue only if you have found in the plaintiff's favor on the (*state number*) issue(s).

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 [the plaintiff has suffered an economic loss] [the defendant has been unjustly enriched], and

And Second, that the defendant's misappropriation of the plaintiff's trade secret was a cause of [the plaintiff's economic loss] [the defendant's unjust enrichment].

A cause is an event or act which in a natural and continuous sequence produces the [economic loss] [unjust enrichment].

There may be more than one cause of an [economic loss] [unjust enrichment]. Therefore, the plaintiff need not prove that the defendant's conduct was the sole cause of the [plaintiff's economic loss] [defendant's unjust enrichment]. The plaintiff must prove, by the greater weight of the evidence, only that the defendant's conduct was a cause.

There may be more than one cause of an [economic loss] [unjust enrichment]. Therefore, the plaintiff need not prove that the defendant's conduct was the sole cause of the [plaintiff's economic loss] [defendant's

unjust enrichment]. The plaintiff must prove, by the greater weight of the evidence, only that the defendant's conduct was a cause.

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 has suffered an economic loss] [defendant has been unjustly enriched], and that the defendant's misappropriation of the plaintiff's trade secret was a cause of [the plaintiff's economic loss] [the defendant's unjust enrichment], 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.

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1. N.C. Gen. Stat. § 66-154(b) provides: "[A]ctual damages may be recovered, measured by the economic loss or the unjust enrichment caused by misappropriation of a trade secret, whichever is greater."