

815.42 DIVORCE - ABSOLUTE - ISSUE OF ONE YEAR'S SEPARATION -
DEFENSE OF MENTAL IMPAIRMENT.

The (*state number*) issue reads:

"Before the plaintiff and the defendant were separated one year,
did the defendant become mentally impaired?"

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

On this issue the burden of proof is on the defendant. This means
that the defendant must prove, by the greater weight of the evidence,
that before the plaintiff and the defendant were separated one year, the
defendant became mentally impaired.

A person is mentally impaired when *he* does not understand what
he is doing or the nature and consequence of *his* acts.¹

Finally, as to this (*state number*) issue on which the defendant has
the burden of proof, if you find by the greater weight of the evidence that
before the plaintiff and the defendant were separated one year, the
defendant became mentally impaired, 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, it would be your duty to
answer this issue "No" in favor of the plaintiff.

1. *Scott v. Scott*, 336 N.C. 284, 442 S.E.2d 493 (1994); *Moody v. Moody*, 253 N.C.
752, 117 S.E.2d 724 (1961).