### IDJI 10.03.2 Products Liability – Seller (other than manufacturer) – product modified by seller

INSTRUCTION NO. \_\_\_\_\_

In order to prove the claim of product liability by a seller other than the manufacturer, the plaintiff has the burden of proving each of the following propositions:

1. The defendant sold the product to [the plaintiff] [or sold the product to \_\_\_\_\_\_\_\_\_\_\_\_\_ name of the person or entity]; and
2. The product was “defective,” as explained in these instructions; and
3. The defect existed when the product left the defendant’s control; and
4. The defendant altered, modified or installed the product, which alteration, modification or installation was either not authorized by the manufacturer, or was not carried out in the manner authorized or directed by the manufacturer; and
5. The defect was the proximate cause of injury to the plaintiff; and
6. The nature and extent of the injuries, the elements of damage, and the amount thereof.

You will be asked the following question on the jury verdict form:

[Insert verdict question verbatim.]

If you find from your consideration of all of the evidence that each of these propositions has been proved, then on the verdict form, you should answer the question “Yes.” If you find that any of these propositions has not been proved, you should answer the question “No.”

Comments:

This instruction may be modified to accommodate the unusual circumstances of a seller which is a wholly owned subsidiary, or a seller which sells the product after a product expiration date, or a seller which provides the design or specification for the product. The modifications can be inserted in Paragraph 4 of this instruction. Idaho Code Section 6-1307(1)c(, (d), and (e).