### IDJI 10.10.4 Products liability defense – failure to observe

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

Under the defense of failure to observe as a basis for comparative fault, the defendant has the burden of proving the following:

1. The defective condition of the product would have been obvious to a reasonably prudent person exercising ordinary care; and
2. The plaintiff’s failure to observe the defective condition was a proximate cause of the injuries or damage to the plaintiff.

Comments:

Idaho Code §6-1405(1).