### IDJI 6.22.1 - Equitable estoppel

INSTRUCTION NO. \_\_\_

 The defendant has asserted the affirmative defense of equitable estoppel. This is a legal term which means the plaintiff may be prevented from enforcing a contract or term of contract by reason of the plaintiff's own conduct.

 To establish the defense of equitable estoppel, the defendant has the burden of proof on each of the following propositions:

 1. The plaintiff falsely represented or concealed a material fact to the defendant;

 2. The plaintiff knew or should have known the true facts;

 3. The defendant did not know and could not discover the true facts;

 4. The defendant relied on the misrepresentation or concealment to the defendant's prejudice.

Comment:

Willig v. Dept. of Health & Welfare, 127 Idaho 259, 261 (1995); Medical Serv. Group v. Boise Lodge,310, 126 Idaho 90, 95 (1994 Ct. App.); Tommerup v. Albertson's, Inc., 101 Idaho 1, 5-6 (1980*);* Bjornstad v. Perry, 92 Idaho 402 (1968). Quasi-estoppel; Quasi estoppel is distinguished from equitable estoppel in that no concealment or misrepresentation of existing facts on the one side, no ignorance or reliance on the other, is a necessary ingredient. The doctrine of quasi estoppel applies when it would be unconscionable to allow a party to assert a right which is inconsistent with a prior position. Willig v. State Dept. of Health & Welfare, 127 Idaho 259, 261 (1995). Determination of the application of the doctrine of quasi estoppel is an equitable issue for the court to determine, and not a jury issue. The jury may be asked to determine the existence of predicate facts, but would not be instructed on the application of the doctrine.