### IDJI 10.03.1 – Products Liability – Seller (other than manufacturer) – general case.

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 person or entity]; and
2. The product was “defective,” as explained in these instruction; and
3. The defect existed when the product left the defendant’s control; and
4. The defendant knew or should have known of the defect; and
5. The defect was a proximate cause of injury to the plaintiff; and
6. The nature and extent of the injuries, the elements of damage, and the amount thereof.
7. You will be asked the following question on the jury verdict form:
8. [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 this question “Yes.” If you find that any of these propositions has not been proved, you should answer the question “No.”

Comments:

This instruction is appropriate for use in a case involving a claim against a seller other than a manufacturer. It attempts to incorporate all the jury questions raised by I.C. § 6-1307(1). Issues raised by this section of the statute that deal with whether the manufacturer must indemnify the seller, such as § 6-1307(1)(c), (d), and (e), and the issue raised by (b) concerning whether the seller’s alterations, modifications or installation were requested or authorized by the manufacturer, or performed in compliance with the manufacturer’s directions or specifications, should not usually be presented to the jury.

I.C. § 6-1307

Puckett v. Oakfabco, Inc., 132 Idaho 816, 979 P.2d 1174 (1999); Hoopes v. Deere & Co., 117 Idaho 386, 788 P.2d 201 (1990); Hawks v. EPI Products USA, Inc., 129 Idaho 281, 923 P.2d 988 (1996).