### IDJI 4.60 – Fraud - issues

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

 The plaintiff has the burden of proving each of the following propositions by clear and convincing evidence:

 1. That the defendant stated a fact to the plaintiff;

 2. The statement was false;

 3. The statement was material;

 4. The defendant either knew the statement was false or was unaware of whether the statement was true at the time the statement was made.

 5. The plaintiff did not know that the statement was false;

 6. The defendant intended for the plaintiff to rely upon the statement and act upon it in a manner reasonably contemplated;

 7. The plaintiff did rely upon the truth of the statement;

 8. The plaintiff’s reliance was reasonable under all the circumstances;

 9. The plaintiff suffered damages proximately caused by reliance on the false statement.

 10. The nature and extent of the damages to the plaintiff, and the amount thereof.

 If you find from your consideration of all the evidence that the elements of fraud have been proved by clear and convincing evidence, then your verdict should be for the plaintiff on this issue. If you find from your consideration of all the evidence that any of the foregoing propositions has not been proved by clear and convincing evidence, then your verdict should be for the defendant.

Comment:

A definition of materiality can be found in IDJI 6.08.5.

See Samuel v. Hepworth, Nungester & Lezamiz, Inc., 134 Idaho 84, P.2d 303 (2000); Watts v. Krebbs, 131 Idaho 616, 962 P.2d 387 (1998); Magic Lantern Prods. Inc. v. Dolsot, 126 Idaho 805, 892 P.2d 480 (1995).

See also, Witt v. Jones, 111 Idao 477, 722 P.2d 474 (1986); Umphrey v. Sprinkel, 106 Idaho 700, 682 P.2d 1247 (1983); Faw v. Greenwood, 101 Idaho 387, 613 P.2d 1338 (1980); Smith v. King, 100 Idaho 331 597 P.2d 217 (1979); King v. McNeel, Inc., 94 Idaho 444, 489 P.2d 1324.