### IDJI 6.27.1 – Fraud

INSTRUCTION NO. \_\_\_

To establish the defense of fraud, the defendant has the burden proving by clear and convincing evidence each of the following propositions:

l. The plaintiff made a representation of a past or present fact;

2. The representation was false;

3. The represented fact was important;

4. The plaintiff knew the representation was false (or acted with a reckless disregard of the truth of the representation);

5. The defendant was not aware of the falsity of the representation;

6. The plaintiff intended that defendant rely upon the representation in agreeing to enter into the contract;

7. The defendant did rely upon the representation;

8. The defendant's reliance was justified; and

9. The defendant [has returned] [has offered to return] to the plaintiff (whatever the defendant would be legally obligated to return in order to prevent his being unjustly enriched.

If you find from your consideration of all the evidence in the case that each of the foregoing propositions has been proved, your verdict should be for the defendant. If you find that any of the propositions has not been proved, then your verdict should be for the plaintiff.

Comment:

Materiality is defined in Instruction 6.08.5