

CONTRACTS--ISSUE OF FORMATION--DEFENSE OF LACK OF MENTAL
CAPACITY--REBUTTAL BY PROOF OF RATIFICATION (BY AGENT, PERSONAL
REPRESENTATIVE OR SUCCESSOR).

The (state number) issue reads:

"Did [an] [a] [agent] [personal representative] [heir]
[name other successor]¹ of the defendant ratify the contract
entered into between the plaintiff and the defendant?"

(You will answer this issue only if you have answered the
(state number)² issue "Yes" in favor of the defendant.)

On this issue the burden of proof is on the plaintiff.
This means that the plaintiff must prove, by the greater weight
of the evidence, three things:

First, that (name agent, etc.) was an [agent] [personal
representative] [heir] [successor] of the defendant with
authority to act on the defendant's behalf.

Second, that (name agent, etc.) knew or, under the
circumstances, had reason to know all the material facts and
circumstances involved with the contract.³ A person knows
something when he has actual knowledge of it. A person has
reason to know something when, under the same or similar

¹*Walker v. McLaurin*, 227 N.C. 53, 40 S.E.2d 455 (1946).

²See N.C.P.I.--Civil 501.05 (Contracts--Issue of Formation--Defense of
Lack of Mental Capacity).

³*Puckett v. Dyer*, 203 N.C. 684, 690, 167 S.E. 43, 46 (1932); *Sherrill v.
Little*, 193 N.C. 736, 740, 138 S.E. 14, 16 (1927).

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circumstances, a reasonable person would have known it or would
have been put on notice of its existence.

And Third, that [the defendant] [(name agent, etc.) on
behalf of the defendant] retained the benefit of the contract
with the plaintiff.⁴

Finally, as to the (state number) issue on which the
plaintiff has the burden of proof, if you find by the greater
weight of the evidence that [an] [a] [agent] [personal
representative] [heir] [name other successor] of the defendant
ratified the contract entered into with the plaintiff, then it
would be your duty to answer this issue "Yes" in favor of the
plaintiff.

If, on the other hand, you fail to so find, then it would
be your duty to answer this issue "No" in favor of the
defendant.

⁴*Id.*