

ACTION FOR SERVICES RENDERED A DECEDENT--ISSUE OF BREACH OF CONTRACT.¹

This issue reads:

"If so, did *(name decedent)* breach that agreement?"

On this issue the plaintiff has the burden of proof to satisfy you by the greater weight of the evidence that *(name decedent)* [failed to compensate *(name plaintiff)* for *his* services] [failed to compensate *(name plaintiff)* for the fair market value of *his* services].

(Here summarize the evidence.)

So I charge you that if you find by the greater weight of the evidence that *(name decedent)* [failed to compensate *(name plaintiff)* for *his* services] [failed to compensate *(name plaintiff)* for the fair market value of *his* services], you would answer this issue "Yes". If you fail to so find, or if upon a fair consideration of all the evidence and circumstances you cannot say where the truth lies, you would answer it "No".

¹NOTE WELL: In most cases failure to pay for services or failure to make a will compensating for services will be admitted or uncontradicted in the evidence, and by admission or stipulation no issue will be necessary. Usually any plea of payment by benefits or compensation to the plaintiff will be in diminution or denial of recovery and may be treated in connection with the issue of recovery (see N.C.P.I.--Civil 735.25).

