

WARRANTIES IN SALES OF GOODS--ISSUE OF BREACH OF IMPLIED WARRANTY
CREATED BY COURSE OF DEALING OR USAGE OF TRADE.

The *(state number)* issue reads:

"Did the defendant breach the implied warranty made to the plaintiff by [course of dealing] [usage of trade]?"

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

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, that the defendant breached the implied warranty made to the plaintiff by [course of dealing] [usage of trade].

A breach of the implied warranty occurs if the *(name good)* does not conform to the *(state nature of contended warranty)* created by the [course of dealing] [usage of trade].

Finally, as to this *(state number)* issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence that the defendant breached the implied warranty made to the plaintiff by [course of dealing] [usage of trade], 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.

