

ANIMALS--LIABILITY OF OWNER WHO ALLOWS DOG TO RUN AT LARGE AT NIGHT. G.S. § 67-12.

The (*state number*) issue reads:

"Was the plaintiff [injured] [damaged] by the defendant's allowing *his* dog to run at large in the nighttime in violation of law?"

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, four things:

First, that the defendant intentionally,¹ knowingly and willfully allowed *his* dog to run at large at night. "At large" means that the dog is wandering, roving, or rambling at will, without restraint, or without being under control of an owner or keeper.² "At night" means it is so dark that a person's face cannot be identified except by artificial light or moonlight.³

Second, that the dog was over six months old at the time.

Third, that the dog was not accompanied by the defendant, a member of *his* family or a person with *his* permission.

And Fourth, that the dog caused [injury to the plaintiff] [damage to the plaintiff's property].

Finally, as to this issue on which the plaintiff has the burden of proof, if you find, by the greater weight of the

¹For an instruction on intent, see N.C.P.I.--Civil 101.46.

²3A C.J.S. *Animals* § 157 (1973).

³*State v. Frank*, 284 N.C. 137, 145, 200 S.E.2d 169, 175 (1973) (burglary case); see also 1B.1 North Carolina Trial Judge's Bench Book (Sunset-Sunrise Tables).

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evidence, that the plaintiff was [injured] [damaged] by the defendant's allowing *his* dog to run at large in the nighttime in violation of law, 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.