

TRADE REGULATION--VIOLATION--ISSUE OF REPRESENTATION OF WINNING A PRIZE.¹ N.C.G.S. § 75-32.

The (*state number*) issue reads:

"Did the defendant unlawfully represent to the plaintiff that he had won a contest or something of value?"

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 the defendant represented to the plaintiff that he had won a contest or something of value. A "representation" is any statement that would lead a reasonable person to believe he has won a contest or something of value (including, but not limited to, phrases such as "congratulations" and "you are entitled to receive").

Second, that the defendant made this representation in connection with the [sale] [lease] [solicitation for sale] [solicitation for lease] of a [good] [property] [service].

Third, that the defendant did not [select the plaintiff to receive a prize by a method in which no more than ten percent of the names considered were selected as winners] [give the prize to the plaintiff without obligation] [deliver the prize to the plaintiff at no expense to *him* within ten days of having made the representation].

¹N.C.G.S. § 75-32; Malone v. Topsail Area Jaycees, Inc., 113 N.C. App. 498, 439 S.E.2d 192 (1994).

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Finally, as to this issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence that the defendant unlawfully represented to the plaintiff that he had won a contest or something of value, 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.