### IDJI 10.01.4 – Negligence of product seller – duty to warn

INSTRUCTION NO. \_\_\_

 A product seller owes a duty to exercise ordinary care to warn all those who may reasonably be expected to use its product where the seller:

 Knows or should know that the product is unreasonably dangerous while being used with ordinary care; and

 Knows or should know that those who may reasonably be expected to use the product may not realize the danger.

 A breach of this duty is negligence.

Comments:

 Restatement (2d) of Torts §308. This instruction presumes that the standard IDJI negligence or comparative negligence instructions will be given.

 This instruction is addressed specifically to actions arising under the Idaho Product Liability Reform Act, Idaho Code §§6-1401, et seq. It may not be appropriate for use in actions arising before the effective date of that Act. The instructions and verdict forms as a whole presume the use of either the \*short or long verdict forms in this section. If a general verdict form is used, some modifications of the instruction may be necessary.