

1 **13-406. Employer sued; employment and scope of employment denied.**

2 If you find that \_\_\_\_\_ (*name of employee*) was the employee of  
3 \_\_\_\_\_ (*name of employer*) and [as] was acting within the scope of [[his][her][its]]  
4 employment at the time of the occurrence, then \_\_\_\_\_ (*name of employer*) is liable  
5 to the plaintiff for any wrongful act or omission of the employee.

6 However, if you find that \_\_\_\_\_ (*name of employee*) was not the employee  
7 of \_\_\_\_\_ (*name of employer*) or [~~that [he] [she]~~] was not acting within the scope  
8 of [[his][her][its]] employment at the time of the occurrence, then \_\_\_\_\_ (*name*  
9 *of employer*) is not liable to the plaintiff for any such act or omission.

10 USE NOTES

11 This instruction is to be used together with UJI 13-403 and 13-407 NMRA when there is a  
12 proper issue for jury deliberation as to liability of the employer for the wrongful acts of the  
13 employee.

14 [As amended, effective January 1, 1987; November 1, 1991; as amended by Supreme Court Order  
15 No. S-1-RCR-2025-00126, effective for all cases pending or filed on or after December 31, 2025.]

16 **Committee commentary.** — This instruction is to be used where a relationship giving rise to  
17 respondeat superior is in issue. *See Hansen v. Skate Ranch, Inc.*, 1982-NMCA-026, ¶ 10, 97 N.M.  
18 486, 641 P.2d 517 [~~(Ct. App. 1982)~~].

19 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]

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