

1 **13-408. Apparent authority; reliance.**

2 The defendant, _____ (*name of alleged employer*), may, if there has been
3 no actual employment, with right to control, nonetheless be liable for the acts or omissions of
4 _____ (*name of alleged apparent employee*), if:

5 1. _____'s (*name of alleged employer*) [~~by [his] [her] [its]~~]
6 statements, acts, or conduct led the plaintiff to reasonably believe _____ (*name of*
7 *apparent employee*) was [~~defendant's~~] the defendant's employee.

8 [No direct communication between the plaintiff and _____ (*name of*
9 *alleged employer*) employer is required; the statements, acts, or conduct may consist of those made
10 to the public in general.]

11 2. [~~Plaintiff~~] The plaintiff dealt with _____ (*name of apparent*
12 *employee*) in justifiable reliance upon representations of _____ (*name of alleged*
13 *employer*);

14 [3. At the time of the injury _____ (*name of apparent*
15 *employee*) was acting in the scope of the apparent employment.]

16 USE NOTES

17 This instruction is to be used together with UJI 13-403 NMRA when apparent authority is
18 an issue. The bracketed language in paragraph number 1 is appropriate when the communication
19 is not direct. If the scope of apparent authority is also in issue, then the bracketed paragraph number
20 3 should be included and UJI 13-407 NMRA should follow this instruction.

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

1 **Committee commentary.** — This instruction assumes that the defendant was not an employer. In
2 *Chevron Oil Co. v. Sutton*, 1973-NMSC-111, ¶¶ 4-5, 85 N.M. 679, 515 P.2d 1283 [~~(1973)~~], the
3 situation was one where there was no employer-employee relationship as between a service station
4 owner and the service station operator, but third persons relied upon the apparent relationship.
5 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]

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