

1 **13-818. Assignment and delegation; definition and presumptions.**

2 [An assignment is an act or an expression that is intended to transfer a right under the  
3 contract to another person. Unless the parties have agreed otherwise, \_\_\_\_\_ (*the*  
4 *assignor*) is entitled to assign ~~[[his] [her]]~~ \_\_\_\_\_'s (*the assignor*) rights and interest under  
5 the contract. If \_\_\_\_\_ (*the assignor-obligee*) has made an assignment to  
6 \_\_\_\_\_ (*the assignee*), then \_\_\_\_\_ (*the assignee*) is entitled to  
7 receive the benefits of the contract and is entitled to enforce \_\_\_\_\_[']s (*the*  
8 *obligor*) obligations under the contract.]

9 [A delegation is a transfer of a duty or an obligation under the contract to another.  
10 Normally, if a person assigns ~~[[his] [her]]~~their rights and interests under the contract, ~~[[he]~~  
11 ~~[[she]]~~\_\_\_\_\_ (*the assignor*) also delegates ~~[[his] [her]]~~their duties of performance.  
12 Therefore, unless the language and conduct of \_\_\_\_\_ (*the assignor*) and  
13 \_\_\_\_\_ (*the assignee*), and the surrounding circumstances, show that  
14 \_\_\_\_\_ (*the assignor*) did not intend to delegate ~~[[his] [her]]~~their duties to  
15 \_\_\_\_\_ (*the assignee*), then \_\_\_\_\_ (*the assignee*) is also obligated  
16 to perform \_\_\_\_\_[']s (*the assignor*) duties under the contract.]

17 USE NOTES

18 Where questions of fact arise as to whether an assignment or delegation has occurred, the  
19 jury should be given the general definition of assignment or delegation or both, in conjunction  
20 with UJI 13-804 NMRA and UJI 13-819 NMRA as applicable.

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

1 **Committee commentary.** — As a general rule, [“assignment”] refers only to rights or interests  
2 under a contract. Unless a contrary intention appears from the language or the circumstances, an  
3 [“assignment of the contract”] is both an assignment of the assignor’s rights and a delegation  
4 of the assignor’s duties. *Paperchase [Partnership] P’ship v. Bruckner*, 1985-NMSC-003, ¶ 7,  
5 102 N.M. 221, 693 P.2d 221[~~(1985)~~]; Restatement (Second) of Contracts § 328 (1979). A  
6 provision prohibiting assignment of the contract, however, bars only the delegation of duties,  
7 unless a contrary intent is clearly shown. *Paperchase [Partnership] P’ship*, 1985-NMSC-003, ¶ 7  
8 [~~v. Bruckner, supra~~]; Restatement (Second) of Contracts § 322. This follows from the law favoring  
9 the right to assignment. *See Cowan v. Chalamidas*, 1982-NMSC-053, ¶¶ 15-16, 98 N.M. 14, 644  
10 P.2d 528[~~(1982)~~], in which lessees to a commercial lease were contractually bound to enter into  
11 a subleasing agreement only upon consent of the lessor. The court held that the lessor’s consent  
12 could not arbitrarily or unreasonably be withheld.

13 To be enforceable, an assignment must manifest an intention to transfer some right or interest.  
14 *Nickell v. United States ex. rel. D.W. Falls, Inc.*, 355 F.2d 73, 76 (10th Cir. 1966). The assignment  
15 must describe the subject matter with sufficient particularity to make it identifiable *Benton v.*  
16 *Albuquerque Nat[.]l Bank*, 1985-NMCA-039, ¶ 16, 103 N.M. 5, 701 P.2d 1025[~~(Ct. App. 1985)~~];  
17 *Nickell*, 355 F.2d at 76 [~~v. United States, supra~~].

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