

1 **13-907. Scope or course of employment.**

2 For an employee to recover damages ~~[[he]-[she]]~~employee must have been doing
3 something ~~[[he]-[she] was]~~they were employed to do or which was reasonably incidental to ~~[[his]-~~
4 ~~[her]]~~their employment.

5 USE NOTES

6 This instruction should be given only when the scope or course of employment is an issue.
7 [As amended, effective November 1, 1991; as amended by Supreme Court Order No. S-1-RCR-
8 2025-00126, effective for all cases pending or filed on or after December 31, 2025.]

9 **Committee commentary.** — This issue is one of substantive law, governed by decisions of the
10 federal court. However, the New Mexico cases are in accord with the general law on this point.
11 *See* and compare cases discussed at 76 A.L.R.2d 1257-~~[12]~~76 and *Garcia v. Atchison, T. & S.F.*
12 *Ry.*, 1959-NMSC-090, 66 N.M. 339, 347 P.2d 1005~~[(1959)]~~, cert. denied, 362 U.S. 989~~[, 80 S.~~
13 ~~Ct. 1077, 4 L. Ed. 2d 1022]~~ (1960); *Rivera v. Atchison, T. & S.F. Ry.*, 1956-NMSC-072, 61 N.M.
14 314, 299 P.2d 1090~~[(1956)]~~; *Atchison, T. & S.F. Ry. v. Wottle*, 193 F.2d 628 (10th Cir. 1952),
15 cert. dismissed, 344 U.S. 850~~[, 73 S. Ct. 89, 97 L. Ed. 661]~~ (1952).

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