13-911. Employee's conduct the sole cause.

There can be no recovery of damages by the plaintiff if the [~~[plaintiff's] [decedent's]~~] [plaintiff's] [decedent's] conduct was the sole cause of the injuries.

USE NOTES

This instruction shall be given at the request of the defendant, when supported by the evidence. It is equally appropriate in cases under the Safety Appliance Acts, 45 U.S.C.A. §§ 1-16, and in cases under the Boiler Inspection Acts, 45 U.S.C.A. §§ 22-34.

[As amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending or filed on or after December 31, 2025.]

Committee commentary. — In *Tillian v. Atchison, T. & S.F. Ry.*, 1935-NMSC-094, 40 N.M. 80, 55 P.2d 34[~~(1935)~~], the court held that whether the employee[']'s injuries were caused solely by [~~his~~]their own negligence, in failing to recognize and heed an obvious danger, was a question of fact for the jury. *See also Miller v. Gulf, M. & O.R.R.*, 386 S.W.2d 97 (Mo. 1964); *Kenefick v. Terminal R.R.* [*Ass'n*]*Ass'n*, 207 S.W.2d 294 (Mo. 1948).

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