

1 **13-918. Verdict for plaintiff; comparative negligence.**

2 In this case, the procedure to be followed in comparing the negligence of the parties and
3 returning a verdict in favor of the plaintiff for a reduced amount based upon that comparison is:

4 (1) Determine the full amount of all damages sustained by the plaintiff;

5 (2) Determine the percentage of plaintiff[']s damages caused by ~~[[his][her]]~~ plaintiff's
6 own negligence and convert that percentage to dollars; and

7 (3) Reduce the full amount of plaintiff[']s damages by that portion of the total damages
8 caused by plaintiff[']s own negligence and return a verdict in favor of the plaintiff for the amount
9 remaining.

10 USE NOTES

11 If contributory negligence is not an issue, this instruction shall not be given.

12 [As amended, effective November 1, 1991; as amended by Supreme Court Order No. S-1-RCR-
13 2025-00126, effective for all cases pending or filed on or after December 31, 2025.]

14 **Committee commentary.** — 45 U.S.C.A. § 53 is the basis for this instruction, which would seem
15 to be the logical procedure to follow.

16 For New Mexico cases recognizing that contributory negligence may not defeat a recovery by
17 plaintiff, but may merely reduce it, *see Clinard v. [Southern]S. Pac. Co.*, 1970-NMSC-093, 82
18 N.M. 55, 475 P.2d 321[~~-(1970)~~]; *Padilla v. Atchison, T. & S.F. Ry.*, 1956-NMSC-034, 61 N.M.
19 115, 295 P.2d 1023[~~-(1956)~~]; *Tillian v. Atchison, T. & S.F. Ry.*, 1935-NMSC-094, 40 N.M. 80, 55
20 P.2d 34[~~-(1935)~~].

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