

**13-413. Liability of employer or co-employee defendant.**

\_\_\_\_\_ (*defendant employer or co-employee*), is responsible only for damages caused to \_\_\_\_\_ (*plaintiff*) only if

\_\_\_\_\_ (*employer or co-employee*) intentionally or willfully injured \_\_\_\_\_ (*plaintiff*).

\_\_\_\_\_ (*employer or co-employee*) acted intentionally if [he] [she] [it] [committed an act] [or] [failed to act] when [he] [she] [it] knew or should have known, under the conditions existing at the time, that \_\_\_\_\_ (*plaintiff*) was substantially certain to be injured as a result.

\_\_\_\_\_ (*employer or co-employee*) acted willfully if [he] [she] [it]:

- (1) intentionally [acted] [or] [failed to act], without just cause or excuse in a way reasonably expected to result in injury to \_\_\_\_\_ (*plaintiff*); and
- (2) either expected the injury to occur or utterly disregarded the consequences of [his] [her] [its] [act] [or] [failure to act].

**DIRECTION FOR USE**

This instruction is to be used whenever the plaintiff is suing an employer or co-employee for injuries suffered in the course and scope of employment.  
[Approved, effective March 21, 2005.]