

13-1634. Strict liability for nondelegable duty.

In this case _____ (*defendant*) employed _____ (*independent contractor*) to do work that was likely to create a substantial risk of physical harm to others. Therefore, _____ (*defendant*) is liable for any harm caused by the absence of reasonable precautions necessary to avoid the harm.

In determining whether reasonable precautions necessary to avoid the harm were absent, you should decide what precautions would have been taken by a reasonably prudent person having full knowledge of the risk.

USE NOTES

This instruction should be given whenever the court determines that there is a nondelegable duty arising from employing an independent contractor to do work that is specially, peculiarly or inherently dangerous. Before the court gives this instruction, it must decide as a matter of law that the work that the employer engaged the independent contractor to perform was likely to create a peculiar risk of harm to others unless reasonable precautions were taken. If the court determines that the conduct is abnormally dangerous (ultrahazardous), UJI 13-1627 NMRA should be given and not this instruction.

[As amended, effective March 1, 2005.]