

**New and updated instructions in this 2023 edition of
North Carolina Pattern Jury Instructions for Motor Vehicle Negligence Cases**

This edition contains a new table of contents for the motor vehicle instructions, a number of replacement instructions for motor vehicle cases, and a new motor vehicle index. To update your printed edition, print and place the instructions listed below in the proper numerical sequence of your previous edition. Old instructions with the same number should be discarded.

Interim Instructions. As the Pattern Jury Instructions Committee considers new or updated instructions, it posts Interim Instructions that are too important to wait until June to distribute as part of the annual hard copy supplements to the School of Government Website at sog.unc.edu/programs/ncpji. You may check the site periodically for these instructions or join the Pattern Jury Interim Instructions Listserv to receive notification when instructions are posted to the website. Visit the following link to join the Listserv: http://lists.unc.edu/read/all_forums/subscribe?name=ncpji.

This supplement contains the following replacements for existing instructions:

- *103.00 Agency—Preface
- 103.10 Agency Issue—Burden of Proof—When Principal is Liable
- 103.25 Agency—Lent Employee Without Vehicle
- 103.40 Ownership of Vehicle as *Prima Facie* Evidence of Agency
- 103.45 Registration as *Prima Facie* Evidence of Ownership and Agency
- 103.61 Agency—Use of Motor Vehicle by Transferee of Agent
- *103.80 Financial Responsibility—Express of Implied Permission/Use of Motor Vehicle

TABLE OF CONTENTS

PREFACE

INTRODUCTION

GUIDE TO THE USE OF THIS BOOK

SIGNIFICANT NEW DEVELOPMENTS

NORTH CAROLINA PATTERN JURY INSTRUCTIONS FOR MOTOR VEHICLE NEGLIGENCE CASES: *Dates the instructions were adopted are found at the top left hand corner of the instruction.

PART I. GENERAL

Chapter 1. Preliminary Instructions.

100.00	Model Motor Vehicle Negligence Charge and Verdict Sheet. (6/15)
100.10	Opening Statement. (12/04)
100.15	Cameras and Microphones in Courtroom. (5/04)
100.20	Recesses. (6/10)
100.21	Recesses. (6/10)
100.43	Deposition Testimony. (5/04)
100.44	Interrogatories. (12/04)
100.70	Taking of Notes By Jurors. (5/04)
101.00	Admonition to the Trial Judge on Stating the Evidence and Relating the Law to the Evidence. (10/85)
101.05	Function of the Jury. (3/94)
101.10	Burden of Proof and Greater Weight of the Evidence. (3/94)
101.14	Judicial Notice. (10/83)
101.15	Credibility of Witness. (3/94)
101.20	Weight of the Evidence. (3/94)
101.25	Testimony of Expert Witness. (2/94)
101.30	Testimony of Interested Witness. (3/94)
101.32	Evidence—Limitation as to Parties. (10/83)
101.33	Evidence—Limitation as to Purpose. (10/83)
101.35	Impeachment or Corroboration by Prior Statement. (5/92)
101.36	Impeachment of a Party or Witness by Proof of Crime. (4/86)
101.37	Evidence Relating to the Character Trait of a Witness (Including a Party) for Truthfulness. (4/86)
101.39	Evidence—Spoilation by a party. (5/01)
101.40	Photograph, Videotape, Motion Pictures, X-Ray, Other Pictorial Representations, Maps, Models, Charts—Illustrative and Substantive Evidence. (10/85)
101.41	Stipulations. (1/88)
101.42	Requests for Admission. (1/88)
101.43	Deposition Evidence. (4/88)
101.45	Circumstantial Evidence. (10/85)

101.46	Definition of [Intent] [Intentionally]. (5/04)
101.50	Duty to Recall the Evidence. (3/94)
101.60	Issues. (3/94)
101.62	Presumptions. (4/84)
101.65	Peremptory Instruction. (8/82)
Chapter 2. Negligence Issue.	
102.10	Negligence Issue—Burden of Proof. (5/94)
102.10A	Negligence Issue—Stipulation of Negligence. (5/09)
102.11	Negligence Issue—Definition of Common Law Negligence. (6/2018)
102.12	Negligence Issue—Definition of Negligence in and of Itself (Negligence Per Se). (5/94)
102.13	Negligence of Minor Between Seven and Fourteen Years of Age. (6/2018)
102.13A	Negligence of a Minor Between Fourteen and Sixteen Years of Age. (Issue of Non-adult Standard). (5/94)
102.14	Negligence Issue—No Duty to Anticipate Negligence of Others. (5/94)
102.15	Negligence Issue—Doctrine of Sudden Emergency. (2/22)
102.16	Negligence Issue—Sudden Emergency Exception to Negligence <i>Per Se</i> . (2/22)
102.19	Proximate Cause—Definition; Multiple Causes. (5/09)
102.20	Proximate Cause—Peculiar Susceptibility. (4/98)
102.21	“No Contact” Rule. (5/73)
102.24	Proximate Cause—“No Contact” Rule. (5/93)
102.25	Negligence Per Se—Violation of Safety Statute or Ordinance. (5/93)
102.26	Proximate Cause—Act of God. (5/94)
102.27	Proximate Cause—Concurring Acts of Negligence. (5/05)
102.28	Proximate Cause—Insulating Acts of Negligence. (Delete Sheet) (6/10)
102.30	Proximate Cause—Defense of Sudden Incapacitation. (2/00)
102.31	Negligence of Minor Between Seven and Fourteen Years of Age. (Delete Sheet) (5/94)
102.35	Contentions of Negligence. (3/94)
102.50	Final Mandate—Negligence Issue. (3/94)
102.60	Concurring Negligence. (5/05)
102.65	Insulating/Intervening Negligence. (6/20)
102.68	Negligence of Owner Entrusting Motor Vehicle to Incompetent, Careless or Reckless Person. (4/11)
102.70	“Dram Shop” Liability—Statutory—Sale or Furnishing of Alcoholic Beverage to Underage Person. (4/04)
102.75	“Dram Shop” Liability—Statutory—Right of Action Lost by Aiding or Abetting Sale or Furnishing. (1/94)
102.81	“Dram Shop” Liability—Common Law—Sale or Furnishing to Intoxicated Person. (1/94)
102.83	Common Law Liability for Providing Impairing Substance to Person Expected to Drive. (6/10)
102.84	Negligence—Infliction of Severe Emotional Distress. (6/18)
102.85	Willful or Wanton Conduct Issue (“Gross Negligence”). (5/97)
102.86	Willful or Wanton Conduct Issue (“Gross Negligence”)—Used to Defeat Contributory Negligence. (12/03)
102.87	Willful or Wanton Conduct Issue (“Gross Negligence”)—Defense of Contributory Willful or Wanton Conduct by Plaintiff. (3/94)
102.90	Negligence Issue—Joint Conduct—Multiple Tortfeasors. (3/94)

- 102.95 Intentional or Reckless Infliction of Severe Emotional Distress. (5/91)
102.97 Action for Loss of Consortium. (5/00)

Chapter 3. Agency and Derivative Liability.

- 103.00 Agency—Preface (2/23)
103.10 Agency Issue—Burden of Proof—When Principal Is Liable. (5/23)
103.15 Independent Contractor. (5/92)
103.25 Agency—Lent Employee— Doctrine. (5/23)
103.40 Ownership of Vehicle as Prima Facie Evidence of Agency. (3/23)
103.41 Identification of Driver. (4/89)
103.45 Registration as Prima Facie Evidence of Ownership and Agency. (3/23)
103.50 Agency—Departure from Employment. (10/85)
103.55 Agency—Willful and Intentional Injury Inflicted by an Agent. (10/85)
103.60 Agency—Use of Agent’s Own Vehicle. (10/85)
103.61 Agency—Use of Motor Vehicle by Transferee of Agent. (5/23)
103.65 Agency—Riders in Principal’s Vehicle. (10/85)
103.70 —Deleted (5/23)
103.75 Agency—Family Purpose Issue. (10/85)
103.80 Financial Responsibility—Express of Implied Permission/Use of Motor Vehicle (3/23)

Chapter 4. Contributory Negligence Issue.

- 104.10 Contributory Negligence Issue—Burden of Proof—Definition. (6/18)
104.20 Contributory Negligence—Gratuitous Passenger or Guest. (10/85)
104.21 Contributory Negligence Per Se—Gratuitous Passenger Voluntarily and Knowingly Riding With Impaired Driver. (6/10)
104.24 Contributory Negligence Per Se—Pedestrian’s Violation of Certain Motor Vehicle Laws. (11/79)
104.25 Contributory Negligence of Minor Between Seven and Fourteen Years of Age. (6/18)
104.30 Contributory Negligence—No Duty to Anticipate Negligence of Others. (6/89)
104.35 Contentions of Contributory Negligence. (3/94)
104.40 Contributory Negligence—Doctrine of Sudden Emergency. (5/08)
104.50 Final Mandate—Contributory Negligence Issue. (3/94)

Chapter 5. Last Clear Chance.

- 105.15 Last Clear Chance—Burden of Proof; Definition; Final Mandate. (5/20)

Chapter 6. Damage Claims by Plaintiffs.

- 106&109 Series Reorganization Notice—Damages. (5/00)
106.00 Personal Injury Damages—Issue and Burden of Proof. (5/04)
106.02 Personal Injury Damages—In General. (5/00)
106.04 Personal Injury Damages—Medical Expenses. (6/13)
106.06 Personal Injury Damages—Loss of Earnings. (5/00)
106.08 Personal Injury Damages—Pain & Suffering. (5/06)
106.10 Personal Injury Damages—Scarring or Disfigurement. (1/05)
106.12 Personal Injury Damages—Loss (of Use) of Part of the Body. (12/04)
106.14 Personal Injury Damages—Permanent Injury. (6/15)
106.16 Personal Injury Damages—Future Worth in Present Value. (5/00)
106.18 Personal Injury Damages—Set Off/Deduction of Workers’ Compensation Award. (5/00)

106.19	Personal Injury Damages—Jury to Consider Only Matters in Evidence. (4/00)
106.20	Personal Injury Damages—Final Mandate (Regular). (5/00)
106.22	Personal Injury Damages—Final Mandate (Per Diem Argument by Counsel). (5/00)
106.24	Personal Injury Damages—Defense of Mitigation. (6/14)
106.26	Loss of Future Earning Capacity Where the Plaintiff has no Employment of Past Employment at the Time of the Accident. (Delete Sheet). (4/00)
106.30	Personal Injury Damages—Loss of Consortium. (4/00)
106.32	Personal Injury Damages—Parent’s Claim for Negligent Injury to Minor Child. (4/00)
106.40	Wrongful Death Damages. (4/00)
106.41	Wrongful Death Damages—Set Off/Deduction of Workers’ Compensation Award. (5/00)
106.42	Wrongful Death Damages—In General. (1/00)
106.44	Wrongful Death Damages—Medical Expenses. (6/13)
106.46	Wrongful Death Damages—Pain and Suffering. (1/00)
106.48	Wrongful Death Damages—Funeral Expenses. (6/13)
106.50	Wrongful Death Damages—Present Monetary Value of Deceased to Next-of-Kin. (1/00)
106.54	Wrongful Death Damages—Final Mandate (Regular). (1/00)
106.56	Wrongful Death Damages—Final Mandate (Per Diem Argument by Counsel). (1/00)
106.60	Property Damages—Issue and Burden of Proof. (4/17)
106.62	Property Damages—Diminution in Market Value. (5/00)
106.64	Property Damages No Market Value—Cost of Replacement or Repair. (5/00)
106.66	Property Damages—No Market Value, Repair or Replacement—Recovery of Intrinsic Actual Value. (5/00)
106.67	Damages for Loss of Use of Vehicle—Measure of Damages. (5/17)
106.68	Property Damages—Final Mandate. (5/00)
106.90	Punitive Damages—Issue of Existence of Outrageous or Aggravated Conduct. (5/96)
106.91	Punitive Damages—Issue of Existence of Malicious, Willful or Wanton, or Grossly Negligent Conduct—Wrongful Death Cases. (5/97)
106.92	Punitive Damages—Insurance Company’s Bad Faith Refusal to Settle a Claim. (5/96)
106.93	Punitive Damages—Issue of Whether to Make Award and Amount. (5/96)
106.94	Punitive Damages—Issue of Whether to Make Award and Amount. (Special Cases). (5/96)
106.96	Punitive Damages—Liability of Defendant. (8/04)
106.98	Punitive Damages—Issue of Whether to Make Award and Amount. (5/96)

Chapter 7. Consolidated with Chapter 6. (5/00)

Chapter 8. Consolidated with Chapter 6. (5/00)

Chapter 9. Plaintiff’s Negligence.

- 108.10 Issue of Plaintiff's Negligence (Counterclaim)—Burden of Proof; Definition; Contentions of Negligence. (6/93)
108.50 Final Mandate—Issue of Plaintiff's Negligence (Counterclaim). (6/93)
108.75 Negligence of Third Party Tort Feasor—Contribution. (1/87)

Chapter 10. Damage Claims by Defendants.

- 109.00 Defendant's Personal Injury Damages (Counterclaim)—Issue and Burden of Proof. (5/00)
109.02 Defendant's Personal Injury Damages (Counterclaim)—In General. (5/00)
109.19 Defendant's Personal Injury Damages (Counterclaim)—Jury to Consider Only Matters in Evidence. (4/00)
109.20 Defendant's Personal Injury Damages (Counterclaim)—Final Mandate (Regular). (5/00)
109.22 Defendant's Personal Injury Damages (Counterclaim)—Final Mandate (Per Diem Argument by Counsel). (5/00)
109.60 Defendant's Property Damages (Counterclaim)—Issue and Burden of Proof. (5/00)
109.62 Defendant's Property Damages (Counterclaim)—Diminution in Market Value. (5/00)
109.64 Defendant's Property Damages (Counterclaim)—No Market Value—Cost of Replacement of Repair. (5/00)
109.66 Defendant's Property Damages (Counterclaim)—No Market Value, Repair or Replacement—Recovery of Intrinsic Actual Value. (5/00)
109.67 Defendant's Property Damages— Loss of Use of Vehicle. (5/00)
109.68 Defendant's Property Damages (Counterclaim)—Final Mandate. (5/00)

Chapter 11. Consolidated with Chapter 10. (5/00)

Chapter 12. Summary Instructions.

- 150.10 Jury Should Consider All Contentions. (3/94)
150.12 Jury Should Render Verdict Based on Fact, Not Consequences. (3/94)
150.20 The Court Has No Opinion. (3/94)
150.30 Verdict Must Be Unanimous. (3/94)
150.40 Selection of Foreperson. (3/94)
150.45 Concluding Instructions—When to Begin Deliberations, Charge Conference. (3/94)
150.50 Failure of Jury to Reach Verdict. (10/80)
150.60 Discharging the Jury. (5/88)

PART II. SPECIFIC ACTS OF NEGLIGENCE.

Chapter 1. Lookout and Control.

- 201.20 Reasonable Lookout. (6/93)
201.30 Proper Control. (6/93)
201.31 Proper Control—Skidding Vehicles (2/89)

Chapter 2. Speed Restrictions.

- 202.10 Speed Restrictions—Reasonable and Prudent (6/09)
202.15 Speed Restrictions—Speed Zones. (3/94)
202.20A Speed Restrictions—Failure to Reduce Speed. (5/88)

- 202.40 Speed Restrictions—School and School Activity Buses. (6/10)
- 202.60 Speed Limitations on Bridges, Causeways, and Viaducts. (5/88)
- 202.80 Speed Limit Not Applicable—Emergency Vehicles. (11/96)
- 202.81 Speed Limit Not Applicable—Emergency Vehicles—Willful or Wanton Conduct—("Gross Negligence"). (12/03)
- 202.85 Driving Too Slowly—No Prescribed Minimum Speed. (5/88)
- 202.90 Driving Too Slowly—Prescribed Minimum Speeds. (5/88)

Chapter 3. Right-of-Way; Railroad Crossings.

- 203.05 Right-of-Way—Traffic Circle. (4/89)
- 203.06 Right-of-Way—Vehicles Approaching Intersection at Approximately the Same Time. (4/89)
- 203.07 Right-of-Way—One Vehicle Intending to Turn Left at Intersection. (6/89)
- 203.08 Right-of-Way—One Vehicle Intending to Turn Left at Alley, Private Road or Driveway. (6/89)
- 203.10 Stop Sign Violation. (5/06)
- 203.15 Stop Sign Violation—Duty of Operator Entering Intersection from Stopped Position. (6/89)
- 203.20 Stop Sign Violation—Duty of Driver on Dominant Highway. (6/89)
- 203.25 Right-of-Way of Operator on Servient Street When Entering Intersection After Stopping. (6/89)
- 203.28 Yield Right-of-Way Signs. (6/89)
- 203.29 Entering Highway from Private Road or Drive. (6/89)
- 203.30 Vehicle Control Signals at Intersections. (6/08)
- 203.31 Signal Lights other than at Intersections. (6/08)
- 203.50 Railway Crossings—Stop Sign. (6/89)
- 203.51 Railroad Warning Signals Must Be Obeyed. (6/89)
- 203.55 Railroad Crossings—Buses and Trucks. (6/89)
- 203.56 Railroad Crossing—Railroad's Duty of Care—Duty to Keep Lookout; Duty to Give Warning. (4/90)
- 203.57 Railroad Crossing—Railroad's Duty of Care—Duty to Provide Special Warning at Extra Hazardous Crossings. (4/90)
- 203.57A Railroad Crossing—Railroad's Duty of Care—Duty of Railroad to Operate and Maintain Existing Crossing Signals. (5/90)
- 203.58 Railroad Crossing—Railroad's Duty of Care—Duty to Maintain Crossings. (5/90)
- 203.58A Railroad Crossing—Railroad's Duty of Care—Duty of Railroad as to Obstructions. (5/90)
- 203.59 Operator's Duty of Care at Railroad Crossings. (5/90)

Chapter 4. Stopping on Highway.

- 203.60 Stopping on Shoulder of Highway. (6/11)
- 203.60A Stopping on Shoulder of Highway. (6/11)
- 203.65 Stopping on Highway or Bridge. (6/11)
- 203.65A Stopping on Highway or Bridge, Posted Speed Limit Less Than 45 Miles Per Hour. (6/11)
- 203.65B Stopping on Highway or Bridge, Posted Speed Limit Greater Than 45 Miles Per Hour. (6/11)
- 203.66 Stopping on Highway—Disabled Trucks, Truck Trailers or Semitrailers. (2/89)
- 203.70 Parking on Highways—Lighting Required. (2/89)

- 203.71 Night Parking on Highways—Bright Lights Prohibited. (2/89)
- 203.75 Motor Vehicles Left Unattended—Setting Parking Brakes, Etc. (4/89)

Chapter 5. Proper Lane.

- 204.09 Duty to Drive In Proper Lane. (12/88)
- 204.10 Duty to Drive on Right Side—Four or More Lanes. (2/89)
- 204.15 General Duty to Drive on Right Side and Exceptions. (2/89)
- 204.17 Duty to Keep to the Right in Crossing Intersections or Railroads. (3/89)
- 204.20 Duty to Drive in Right Lane at Slow Speeds. (2/89)
- 204.25 Driving to the Left of Center on Hillcrest or Curve. (Delete Sheet). (6/07)
- 204.51 Operation of Motorcycles—Driving More Than Two Abreast. (2/89)
- 204.52 Operation of Motorcycles—Entitlement to Full Use of a Lane. (2/89)
- 204.80 One-Way Traffic. (2/89)

Chapter 6. Following and Passing.

- 205.10 Meeting of Vehicles. (6/89)
- 205.30 Following Too Closely. (2/89)
- 205.32 Following Too Closely—Overtaking Vehicle. (2/89)
- 205.50 Overtaking and Passing on Two-Lane Highway. (2/20)
- 205.51 DELETE SHEET—Overtaking and Passing When Prohibited by Signs, Marks, or Markers. (6/07)
- 205.55 Driver to Give Way to Overtaking Vehicle. (2/89)
- 205.60 Passing on Right Prohibited; Exceptions. (2/89)
- 205.65 Common Law Duty to Sound Horn in Passing. (2/89)
- 205.70 Passing Horses or Other Draft Animals. (2/89)
- 205.80 Duty to Dim Headlights. (2/89)

Chapter 7. Backing Vehicle and Turn Signals.

- 205.90 Backing of Vehicles. (2/89)
- 206.10 Signal on Starting, Stopping or Turning—Another Vehicle Affected. (2/89)

Chapter 8. Reckless Driving and Driving While Impaired.

- 207.10 Reckless Driving. (4/89)
- 208.10 Driving While Impaired. (6/09)

Chapter 9. Turning.

- 209.10 Turning—Right Turn. (4/89)
- 209.15 Turning at Intersection—Left Turn. (4/89)
- 209.20 Turning at Intersection—Controlled by Buttons, Markers, or Other Direction Signs. (4/89)

Chapter 10. Emergency Vehicles.

- 210.10 Right-of-Way of Emergency Vehicles—Duty of Driver of Emergency Vehicle. (4/89)
- 210.15 Emergency Vehicles—Duty of Driver of Non-Emergency Vehicle. (6/07)
- 210.25 Emergency Vehicles—Interference with Fire Equipment (6/07)
- 210.30 Emergency Vehicles—Chasing Firetrucks (Inside City Limits). (6/07)
- 210.31 Emergency Vehicles—Chasing Firetrucks (Outside City Limits). (6/07)
- 210.35 Emergency Vehicles—Interference With Fire Equipment. (4/89)

- 210.40 Emergency Vehicles—Parking Within 100 Feet of Emergency Vehicle. (6/07)
- 210.41 Emergency Vehicles—Approaching Parked or Standing Authorized Emergency Vehicles (effective before July 1, 2006). (6/07)
- 210.42 Emergency Vehicles—Approaching Parked or Standing Authorized Emergency Vehicles or Public Service Vehicle (effective July 1, 2006). (6/13)

Chapter 11. Pedestrians.

- 211.01 Motorist's Duty Toward Pedestrian—Intersection or Other Appropriate Place With Special Pedestrian Control Signals. (4/89)
- 211.10 Motorists's Duty Toward Pedestrian—Crosswalk or Intersection. (2/22)
- 211.20 Duty of Following Motorist When Vehicle Has Stopped for Pedestrian. (4/89)
- 211.30 Pedestrian—Crossing At Intersection or Other Appropriate Place With Special Pedestrian Control Signals. (6/89)
- 211.35 Pedestrian—Crossing At Intersection With Vehicular Traffic Control Signals. (6/89)
- 211.36 Pedestrian—Crossing At Places With Vehicular Traffic Control Signals Other Than at Intersections. (6/89)
- 211.40 Pedestrian—Crossing at Other Than Crosswalks. (6/89)
- 211.40A Motorist's Duty toward Pedestrian—Crossing at Other Than Crosswalks. (5/20)
- 211.45 Pedestrian Duty to Walk to Left of Highway and Yield Right-of-Way. (6/89)
- 211.45A Motorist's Duty to Pedestrian—Walking on Highway. (6/89)
- 211.46 Motorist's Duty Toward Pedestrian—Turning at Intersection with Vehicular Traffic Control Signals. (6/08)
- 211.50 Pedestrian—Standing, Sitting or Lying Upon Highway. (6/89)
- 211.55 Hitchhiker—Pedestrians Soliciting Rides. (6/89)
- 211.56 Pedestrians—Standing or Loitering on Highways; Soliciting Employment, Business or Contributions. (6/89)
- 211.70 Right-of-Way of Blind Pedestrians With White Canes or Guide Dogs. (6/89)
- 211.75 Pedestrians—Duty of Lookout—Pedestrians With Right-of-Way. (6/89)
- 211.76 Pedestrians—Duty of Lookout—Pedestrians Without Right-of-Way. (6/89)
- 211.80 Children (Including Those on Bicycles) on Highways and Streets. (6/89)
- 211.82 Children—Transporting Children in Open Bed of Vehicle. (6/09)

Chapter 12. Speed Competition.

- 213.10 Racing and Speed Competition. (5/88)

Chapter 13. Required Equipment.

- 215.10 Required Lighting Equipment—Ordinary Motor Vehicles—Headlights and Taillights. (6/89)
- 215.11 Required Lighting Equipment—Ordinary Motor Vehicles and Motorcycles—Stoplights. (6/89)
- 215.15 Required Lighting Equipment—Motorcycles—Nighttime. (10/88)
- 215.16 Required Lighting Equipment—Motorcycles—Daytime. (10/88)
- 215.20 Required Lighting Equipment—Bicycles. (10/88)

215.25	Flag or Light at End of Load. (6/10)
215.30	Requirement of Safety Glass for Motor Vehicles. (6/89)
215.31	Windshield and Window Requirements. (2/20)
215.35	Inside Mirrors—Most Motor Vehicles. (10/88)
215.36	Mirrors—Pickup Trucks. (10/88)
215.37	Mirrors—When Inside Mirror Would Be Ineffective. (10/88)
215.38	Outside Mirrors—Most Motor Vehicles. (10/88)
215.40	Tires—Safety Requirements. (6/10)
215.40A	Tires—Safety Requirements. (6/10)
215.50	Overloading or Overcrowding Motor Vehicles Prohibited. (10/88)
215.55	Motorcycles—Overcrowding; Helmets. (10/88)
215.60	Securing Loads—Open Flat Trucks. (4/89)
215.65	Towed Vehicles—Attachment; Snaking. (10/88)
215.70	Vehicle Transporting Explosives Before June 24, 1985. (10/88)
215.71	Vehicle Transporting Explosives After June 24, 1985. (10/88)
215.75	Steering Mechanism. (10/88)
215.80	Brakes—Most Motor Vehicles. (10/88)
215.81	Brakes—Motorcycles. (10/88)
215.82	Brakes—Trucks and Tractor-Trucks. (10/88)
215.83	Brakes—Towed Vehicles. (10/88)
Chapter 14. Stop at Scene of Accident.	
217.10	Duty to Stop and Render Aid at Scene of Accident. (6/09)
Chapter 15. School Buses.	
218.10	Stopping for School and Other Buses Transporting Children (or Senior Citizens). (5/06)
218.11	Stopping for School and Other Buses Transporting Children (or Senior Citizens). (5/06)
218.50	Receiving or Discharging School Bus Passengers. (6/89)
Chapter 16. Operating Vehicle Without License.	
220.10	Operation of Vehicle Without a Class "C" License—Under Age. (6/89)
220.20	Knowingly Permitting One to Operate a Vehicle Without a License—General Provision. (6/89)
220.21	Permitting Unlicensed Minor to Drive. (6/89)
Chapter 17. Interstate Highway Violations.	
221.10	Controlled-Access Highway—Crossing Central Dividing Line. (4/89)
221.15	Controlled-Access Highway—Turns. (4/89)
221.20	Controlled-Access Highway—Driving in Improper Lane, Wrong Way. (4/89)
221.25	Controlled-Access Highway—Entering and Exiting. (4/89)
221.30	Controlled-Access Highway—Stopping on Right-of-Way. (4/89)
221.35	Controlled-Access Highway—Failure to Yield Right-of-Way. (4/89)
Chapter 18. Miscellaneous Acts of Negligence.	
225.10	Location of Video Monitors and Screens in Motor Vehicles. (6/10)
225.11	Driving While Texting. (6/13)
225.13	Commercial Motor Vehicle—Driving While Using A Mobile Telephone Or Other Electronic Device. (6/13)
225.20	Coasting Prohibited. (10/88)

225.22	Driving Through Safety Zone. (4/89)
225.23	Driving on Sidewalks. (4/89)
225.35	Persons Riding Animals and Drivers of Animal-Drawn Vehicles. (6/89)
225.37	Special Acts of Negligence—Moped Operator (Under Age). (6/10)

APPENDICES.

A. DEFINITIONS FROM THE MOTOR VEHICLE CODE. (6/09)

B. TABLE OF SECTIONS OF GENERAL STATUTES INVOLVED IN CIVIL INSTRUCTIONS THROUGH 225.35. (6/85)

C. DESCRIPTIVE WORD INDEX. (6/22)

103.00 AGENCY—PREFACE

The operation of motor vehicles by persons other than the owner presents a number of possible scenarios in which the owner may be held liable for the negligent acts of the operator. The common law rule of agency is the most frequent example in which the principal (owner) is liable for the negligence of any agent (driver) during the course and scope of an agency relationship. *See, e.g.:*

- N.C.P.I.-Motor Vehicle 103.10—Agency Issue—Burden of Proof—When Principal is Liable;
- N.C.P.I.-Motor Vehicle 103.15—Independent Contractor;
- N.C.P.I.-Motor Vehicle 103.25—Agency—Lent Servant Doctrine;
- N.C.P.I.-Motor Vehicle 103.50—Agency—Departure from Employment;
- N.C.P.I.-Motor Vehicle 103.55—Agency—Willful and Intentional Injury Inflicted by an Agent;
- N.C.P.I.-Motor Vehicle 103.60—Use of Agent’s Own Vehicle;
- N.C.P.-Motor Vehicle 103.70—Final Mandate—Agency Issue.

In addition to traditional agency relationships, there are other situations that apply specifically to the operation of motor vehicles by a person other than the owner, in which special rules apply, including the following:

1. N.C.P.I.—Motor Vehicle 103.40—Ownership of Vehicle as *Prima Facie* Evidence of Agency; N.C.G.S. § 20-71.1. By statute, proof of ownership of a motor vehicle at the time of an accident or collision is *prima facie* evidence that the vehicle was being operated and used with the authority, consent and knowledge of the owner in the very transaction out of which the injury or cause of action arose. This evidentiary rule creates a method for placing the issue before the jury, but still requires the proof of an agency relationship.

2. N.C.P.I.—Motor Vehicle 103.45—Registration as *Prima Facie* Evidence of Ownership and Agency; N.C.G.S. § 20-71.1. By statute, proof of the registration of a motor vehicle in the name of a [person] [firm] [corporation] at the time of an accident or collision is *prima facie* evidence of ownership and that the vehicle was then being operated by and under the control of a person for whose conduct the owner was legally responsible, that it was being operated for the owner's benefit, and that it was being operated within the course and scope of the driver's employment. In the same manner as proof of ownership, this evidentiary rule concerning proof of registration creates a method for placing the issue before the jury, but still requires the proof of an agency relationship.

In addition, financial responsibility for injuries may also be extended beyond what is imposed in an agency relationship by virtue of statute and case law in North Carolina pertaining to mandatory liability insurance coverage on motor vehicles. In particular, N.C.G.S. § 20-279.21(b)(2) provides that an owner's policy of liability insurance "[s]hall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, or any other persons in lawful possession, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle. *Belasco v. Nationwide Mut. Ins. Co.*, 73 N.C. App. 413, 415, 326 S.E.2d 109, 110 (1985). Disputes over insurance coverage most often are presented through Declaratory Judgment actions, but these actions may also include issues of fact for the jury. See, e.g., N.C.P.I.—Motor Vehicle 103.80—Financial Responsibility—Express or Implied Permission/Use of Motor Vehicle.

NOTE WELL: When instructing a jury on issues relating to insurance coverage, the presiding judge should take care not to

*mention the existence or non-existence of liability insurance. See
N.C.G.S. § 8C-1; N.C.R. Evid. 411.*

103.10 AGENCY ISSUE—BURDEN OF PROOF—WHEN PRINCIPAL IS LIABLE.

This issue reads:

“Was (*state name of agent*) the agent of the defendant (*state name of defendant*) at the time of the collision?”¹

NOTE WELL: If the testimony presented at trial is in terms of employment rather than agency, the Court may choose to replace references to “principal” with “employer” and references to “agent” with “employee.”

You will answer this issue only if you have answered Issue (*state number of issue addressing agent’s negligence*) “Yes” in favor of the plaintiff.

Agency is the relationship which results when one person, called the principal, authorizes another person, called the agent, to act for the principal. This relationship may be created by word of mouth, or by writing, or may be implied from conduct amounting to consent or acquiescence. A principal is liable to third persons for the [acts] [negligence] of [his] [her] [its] agent in the transaction of the principal’s business if the agent [himself] [herself] is liable.²

On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, the following three things:

First, that there was a principal-agent relationship between (*state name of principal*) and (*state name of agent*) at the time of the collision.

Second, that (*state name of agent*) was engaged in the work, and was about the business of (*state name of principal*) at the time of the collision.

Third, that the business in which (*state name of agent*) was engaged at the time was within the course and scope of [his] [her] authority or

employment. It would be within the course and scope of (*state name of agent*)’s authority or employment if it was done in furtherance of the business of (*state name of principal*), or was incident to the performance of duties entrusted to (*state name of agent*), or was done in carrying out a direction or order of (*state name of principal*)³, and was intended to accomplish the purposes of the agency.

Finally, as to this issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence that there was a principal-agent relationship between (*state name of principal*) and (*state name of agent*) at the time of the collision, that (*state name of agent*) was engaged in the work, and was about the business of (*state name of principal*) at the time of the collision, and that the business in which (*state name of agent*) was engaged at the time was within the course and scope of [his] [her] authority or employment, then it would be your duty to answer this issue “Yes” in favor of the plaintiff.

If, on the other hand, you fail to so find, then it would be your duty to answer this issue “No” in favor of the defendant.

1. “Unless there is but one inference that can be drawn from the facts, whether an agency relationship exists is a question of fact for the jury. If only one inference can be drawn from the facts then it is a question of law for the trial court.” *Hylton v. Koontz*, 138 N.C. App. 629, 635-36, 532 S.E.2d 252, 257 (2000) (citation omitted), *disc. review denied and dismissed*, 353 N.C. 373, 546 S.E.2d 603-04 (2001).

2. See *Egen v. Excalibur Resort Professional & Travelers Insurance Co.*, 191 N.C. App. 724, 729, 663 S.E.2d 914, 918 (2008) (noting that “[t]he general agency doctrine holds the principal responsible for the acts of his agent”); see also *Keller v. Deerfield Episcopal Ret. Cmty., Inc.*, 271 N.C. App. 618, 629, 845 S.E.2d 156, 164 (2020) (“Where the agent has no liability, there is nothing from which to derive the principal’s liability.”).

3. *Hendrix v. Town of West Jefferson*, 273 N.C. App. 27, 33, 847 S.E.2d. 903, 908 (2020) (“To be within the scope of employment, an employee, at the time of the incident, must be acting in furtherance of the principal’s business and for the purpose of accomplishing the duties of his employment. If an employee departs from that purpose to accomplish a purpose of his own, the principal is not [vicariously] liable.”) (quoting *Troxler v. Charter Mandala Center*, 89 N.C. App. 268, 271, 365 S.E.2d 665, 668 (1988)).

103.25 AGENCY—LENT EMPLOYEE¹ WITHOUT VEHICLE

A [principal] [employer] who lends or hires out an [agent] [employee] to another person remains responsible to third persons for the negligence of the [agent] [employee] unless, as to the work involved, [he] [she] [it] completely surrenders any control over the [agent] [employee].

The test in determining whether a lent [agent] [employee] becomes the agent of the person to whom the [agent] [employee] is loaned is whether [he] [she] [it] passes under the control of that person with regard not only to the work to be done, but also to the manner of performing it.²

LENT EMPLOYEE WITH VEHICLE

Where a [principal] [employer] furnishes to another person a motor vehicle and driver, [principal] [employer] remains responsible for the negligent act(s) of the driver unless [he] [she] [it] so completely surrenders control over the driver as virtually to suspend, temporarily at least, the responsibility normally associated with control.

The test in determining whether a lent [agent] [employee] becomes the agent of the person to whom the [agent] [employee] is loaned is whether [he] [she] [it] passes under the control of that person with regard not only to the work to be done, but also to the manner of performing it.³

1. The Lent Employee Doctrine was previously known in antiquated terms as the "Borrowed Servant Rule" or "Lending-Servant Doctrine" and was referred to as such in previous versions of these Pattern Jury Instructions.

2. See generally, *Lewis v. Barnhill*, 267 N.C. 457 (1966); *Weaver v. Bennett*, 259 N.C. 16 (1963); *Leonard v. Tatum & Dalton Transfer Co.*, 218 N.C. 667 (1940).

A continuance of the general employment is indicated if one rents a machine and operator to another, particularly if the instrumentality is of considerable value. The general employer normally expects the employee to protect the employer's interests. The fact that

the general employer is in the business of renting automobiles with drivers is relevant, since in such cases there is more likely to be an intent to retain control. A person who is not in such business and who, gratuitously or not, as a matter not within his general business enterprise permits his employees and his automobile to assist another, is more apt to intend to surrender control. *Moody v. Kersey*, 270 N.C. 614 (1967) (concerning a crane) *Lewis v. Barnhill*, 267 N.C. 457 (1966) (same); *Weaver v. Bennett*, 259 N.C. 16 (1963) (concerning a unit backhoe); *Jones v. Douglas Aircraft Co.*, 251 N.C. 832 (1960) (concerning a crane); *Hodge v. McGuire*, 235 N.C. 132 (1952) (concerning a bulldozer).

3. See *supra* n.2.

103.40 OWNERSHIP OF VEHICLE AS *PRIMA FACIE* EVIDENCE OF AGENCY.

The motor vehicle law provides that proof of ownership of a motor vehicle at the time of an accident or collision is sufficient evidence that the vehicle was being operated and used with the authority, consent and knowledge of the owner in the very transaction out of which the injury or cause of action arose.¹ In other words, proof of ownership of the vehicle is sufficient evidence from which you could find, but are not compelled to find, that the driver was an agent of the owner.

The owner may offer evidence tending to show that, in fact, no agency existed. Whether or not the owner offers such evidence, the owner does not have the burden of proving the absence of agency.²

1. *Biggs v. Brooks*, 285 N.C. App. 64, 68, 877 S.E.2d 406, 409 (2022) (“By law, proof of ownership of a motor vehicle at the time of a collision is *prima facie* evidence that the motor vehicle was being operated with the authority, consent, and knowledge of the owner and ‘being operated by and under the control of a person for whose conduct the owner was legally responsible.’”).

2. When a plaintiff relies upon proof of ownership through N.C.G.S. § 20-71.1(a), “the defendant may offer positive, contradicting evidence which, if believed, would establish the absence of an agency relationship. This contradictory evidence entitles the defendant to a peremptory instruction that if the jury does believe the contrary evidence, it must find for defendant on the agency issue. In other words, when the defendant presents evidence contradicting this statutory agency principle, the statutory presumption is not weighed against defendant’s evidence by the trier of facts. Instead, the plaintiff must present affirmative evidence supporting the agency theory.” *Biggs v. Brooks*, 285 N.C. App. 64, 69, 877 S.E.2d 406, 410 (2022) (internal quotation marks and citations omitted). For an example of a peremptory instruction, see N.C.P.I. 101.65—Peremptory Instruction.

103.45 REGISTRATION AS *PRIMA FACIE* EVIDENCE OF OWNERSHIP AND AGENCY.

The motor vehicle law provides that proof of the registration of a motor vehicle in the name of a [person] [firm] [corporation] at the time of an accident or collision is sufficient evidence of ownership and that the vehicle was then being operated by and under the control of a person for whose conduct the owner was legally responsible, that it was being operated for the owner's benefit, and that it was being operated within the course and scope of the driver's employment. In other words, proof of registration is sufficient evidence from which you could find, but are not compelled to find, that the driver was an agent of the [person] [firm] [corporation] in whose name the vehicle was registered.

The [person] [firm] [corporation] may offer evidence tending to show that, in fact, (the [person] [firm] [corporation] was not the owner and that) no agency existed. Whether or not this evidence is offered, that [person] [firm] [corporation] does not have the burden of proving the absence of (ownership or) agency.¹

1. *Biggs v. Brooks*, 285 N.C. App. 64, 69, 877 S.E.2d 406, 410 (2022) reasons that when a plaintiff relies upon proof of ownership through N.C.G.S. § 20-71.1(a), "the defendant may offer positive, contradicting evidence which, if believed, would establish the absence of an agency relationship. This contradictory evidence entitles the defendant to a peremptory instruction that if the jury does believe the contrary evidence, it must find for defendant on the agency issue. In other words, when the defendant presents evidence contradicting this statutory agency principle, the statutory presumption is not weighed against defendant's evidence by the trier of facts. Instead, the plaintiff must present affirmative evidence supporting the agency theory." *Id.* (internal quotation marks and citations omitted). While *Biggs* discusses the peremptory instruction in the context of proof of ownership under N.C.G.S. § 20-71.1(a), absent case authority otherwise, it appears *Biggs'* rationale would apply equally to N.C.G.S. § 20-71.1(b). See also *Thompson v. Three Guys Furniture Co.*, 122 N.C. App. 340, 344, 469 S.E.2d 583, 586 (1996) (discussing N.C.G.S. § 20-71.1 generally). For an example of a peremptory instruction, see N.C.P.I. 101.65—Peremptory Instruction.

103.61 AGENCY—USE OF MOTOR VEHICLE BY TRANSFEREE OF AGENT.¹¹

The law of North Carolina provides that a person authorized by the owner to drive a vehicle does not have authority to permit another to drive the vehicle in the absence of express or implied authority by the owner, and unless this authority is present, the owner is not liable for the negligent acts of the other driver.

NOTE WELL: The recitation of North Carolina law set forth above is applicable under general agency principles, but may not necessarily be accurate for claims implicating the Motor Vehicle Safety and Financial Responsibility Act, N.C.G.S. § 20-279.1, et seq. See N.C.P.I.—Motor Vehicle 103.80—Financial Responsibility—Express or Implied Permission/Use of Motor Vehicle.

[Express authority is authority definitively and clearly given either orally or in writing and not left to inference or implication.]

[Implied authority is authority inferred from the circumstances, conduct, or language of the parties.]

[However, if the [agent] [employee] is confronted with an emergency which makes it necessary for the [agent] [employee] to get aid, and for this reason the [agent] [employee] authorizes another driver to operate the [principal's] [employer's] vehicle, the [principal] [employer] would be liable for [injuries] [damages] proximately caused by the other driver's negligence while rendering the aid requested by the [agent] [employee].]

I charge you that the [defendant] [plaintiff] is not responsible for the negligent operation of the vehicle by a driver other than the [[defendant's] [plaintiff's]] [[agent] [employee]] unless you find from the greater weight of the evidence that (1) the [[defendant's] [plaintiff's]] [[agent] [employee]] had the authority, either express or implied, to allow the other driver to

operate the vehicle, or (2) the [[defendant's] [plaintiff's]] [[agent] [employee]] was confronted with an emergency which made it necessary for the [defendant] [plaintiff] to authorize the other driver to operate the vehicle.

1. See *Torres v. Smith*, 269 N.C. 546 (1967); *Barrier v. Thomas & Howard Co.*, 205 N.C. 425 (1933).

103.80 FINANCIAL RESPONSIBILITY¹—EXPRESS OR IMPLIED PERMISSION/
USE OF MOTOR VEHICLE.

NOTE WELL: This instruction is to be used with claims implicating the Motor Vehicle Safety and Financial Responsibility Act, N.C.G.S. § 20-279.1, et seq. and is most likely to arise in a declaratory judgment action related to insurance coverage.

This (*state number*) issue reads:

“Did the driver have permission to operate the owner’s vehicle at the time of the accident?”

On this issue the burden of proof is on the [party seeking to establish permission].

[Express permission is directly and distinctly stated, clear and outspoken, and not merely implied or left to inference.²]

[Implied permission involves an inference arising from a course of conduct or relationship between the parties, in which there is mutual acquiescence or lack of objection under circumstances signifying assent or approval. The relationship between the owner and the driver, such as kinship, social ties, and the purpose of the use, should all be taken into consideration to determine the owner’s implied permission for the actual use.³

Implied permission may be found where the owner has knowledge of a violation of instructions and fails to make a significant protest. Knowledge may be actual or constructive.⁴ Actual knowledge is direct and clear knowledge of a fact.⁵ Constructive knowledge is knowledge that a person using reasonable care or diligence should have, and therefore that knowledge is attributed to the person by law.⁶

Additionally, use must fall within the scope of implied permission. A person is permitted to slightly deviate from the authority or permission granted by the owner of the vehicle to operate the vehicle. However, a material deviation from the permission or authority granted, if any, constitutes a use of the automobile without the owner's implied permission.⁷ If the permission granted is general in nature, then specific trip permission would not have to be shown.]

Finally, as to this (*state number*) issue on which the (*the party who is attempting to establish permission*) has the burden of proof, if you find, by the greater weight of the evidence, that the driver had [express] [implied] permission to operate the owner's vehicle at the time of the accident, then it would be your duty to answer this issue "Yes" in favor of [the party who is attempting to establish permission].

If, on the other hand, you fail to so find, then it would be your duty to answer this issue "No" against (*the party who is attempting to establish permission*).

1. *Belasco v. Nationwide Mut. Ins. Co.*, 73 N.C. App. 413, 416, 326 S.E.2d 109, 111 (1985) outlines lawful possession of another's vehicle pursuant to the Motor Vehicle Safety and Financial Responsibility Act, N.C.G.S. § 20-279.1, *et seq.*

2. *Hawley v. Indem. Ins. Co. of N. Am.*, 257 N.C. 381, 384, 126 S.E.2d 161, 164 (1962).

3. *Hawley v. Indem. Ins. Co. of N. Am.*, 257 N.C. 381, 384, 126 S.E.2d 161, 164 (1962).

4. *Hawley v. Indem. Ins. Co. of N. Am.*, 257 N.C. 381, 384, 126 S.E.2d 161, 164 (1962).

5. *Phillips ex rel. Bates v. N. Carolina Dep't of Transp.*, 200 N.C. App. 550, 558, 684 S.E.2d 725, 731 (2009) (citing *State v. Poteat*, 163 N.C. App. 741, 746, 594 S.E.2d 253, 255–56 (2004)); *see also Knowledge*, BLACK'S LAW DICTIONARY (11th ed. 2019).

6. *Phillips ex rel. Bates v. N. Carolina Dep't of Transp.*, 200 N.C. App. 550, 558, 684 S.E.2d 725, 731 (2009) (citing *State v. Poteat*, 163 N.C. App. 741, 746, 594 S.E.2d 253, 255–56 (2004)); see also *Knowledge*, BLACK'S LAW DICTIONARY (11th ed. 2019).

7. *Hawley v. Indem. Ins. Co. of N. Am.*, 257 N.C. 381, 384, 126 S.E.2d 161, 164 (1962); see also *Nationwide Mut. Ins. Co. v. Baer*, 113 N.C. App. 517, 522, 439 S.E.2d 202, 205 (1994).

