

13-1309. Duty to visitor.

An [owner] [occupant] owes a visitor the duty to use ordinary care to keep the premises safe for use by the visitor [, whether or not a dangerous condition is obvious].

USE NOTES

This instruction is to be used to define the duty of care owed to a visitor. It applies in all cases in which a visitor claims to have been injured as a result of an unreasonably dangerous condition of the premises, including those in which the condition was open and obvious. In cases involving open and obvious dangers, the bracketed portion of the instruction should be given; in other cases it should be omitted. If the court concludes that the plaintiff's negligence in encountering a known or obviously dangerous condition was unforeseeable as a matter of law, however, an instruction imposing a duty of care on the owner/occupier of the premises should not be given.

For an instruction specifically applicable to typical slip and fall cases, see UJI 13-1318. For a supplemental instruction applicable to cases in which a visitor has been injured by the conduct of a third person, see UJI 13-1320. UJI 13-1601 (negligence) and 13-1603 (ordinary care) should be given with this instruction.

Where the case involves an issue of the plaintiff's alleged comparative fault, an appropriate instruction regarding the plaintiff's duty should also be given, such as UJI 13-1604 (ordinary care for own safety) or a modified version of UJI 13-1202 and 13-1203 (proper lookout).

[As amended, effective January 1, 1987; March 1, 1996.]