**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.]