

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.*

