

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.

