

**190.08 No Issue as to Agency**

\_\_\_\_\_ was the agent of the defendant \_\_\_\_\_ at [and before]  
Agent's name [owner's] [licensee's] name

the time of this occurrence. Therefore any act or omission of the agent at that time was in law the act or omission of the defendant \_\_\_\_\_ .  
[owner's] [licensee's] name

*Instruction, Notes and Comment approved May 2014.*

**Notes on Use**

This instruction should only be used when there is no issue as to agency. If the defendant disputes agency, the Committee is of the opinion that a modified version of IPI 50.04 should be utilized. Specifically, it is the Committee's position that because the Nursing Home Care Act provides that owners and/or licensees are liable for all negligent and intentional acts of their agents without stating any limitation, requiring proof that the agent was acting within the scope of his or her authority is not required.

**Comment**

The language of 213 ILCS 45/3-601 provides that owners and/or licensees are liable "for any intentional or negligent act or omission of their agents or employees which injures the resident." Because the Act places no limitation on this liability, the Committee's position is that IPI 50.04 should be modified to remove the requirement that the agent or employee was acting within the scope of authority. For the same reason, the Committee's position is that IPI 50.06 should not be used in these cases.