**23.08 LIABILITY OF PRINCIPAL – AGENT WITH APPARENT AUTHORITY**

[Plaintiff] claims that [defendant] is responsible for [third party]’s conduct. [Defendant] is responsible for [third party]’s conduct if you find that it is more likely true than not true that:

1. based on [defendant]’s words or conduct, [plaintiff] reasonably believed that [defendant] authorized [third party] to do [description] on [defendant]’s behalf ; and

(2) [plaintiff] reasonably relied on this belief.

**Use Note**

This instruction should be given when the plaintiff claims that the defendant is liable based on an apparent authority theory.

**Comment**

Apparent authority exists when a principal’s words or conduct, reasonably interpreted, leads a third party to believe that the principal consents to have an act done on his or her behalf by an agent or other actor. Restatement (Third) of Agency § 2.03, 3.03; *Airline Support, Inc. v. ASM Capital II, L.P.*, 279 P.3d 599, 604-05 (Alaska 2012); *Anderson v. PPCT Management Systems, Inc.*, 148 P.3d 503, 509 (Alaska 2006).

There are three considerations in evaluating claims for apparent authority: the principal’s words or conduct creating an inference of apparent authority; the third party’s reliance on the principal’s words/conduct; and the reasonableness of the third party’s interpretation of and reliance on the principal’s words/conduct. *Airline Support*, 279 P.3d at 604-05; *Anderson*, 148 P.3d at 509; *Cummins, Inc. v. Nelson*, 115 P.3d 536 (Alaska 2005).

A principal may be bound to a contract on the basis of an agreement by a person with apparent authority.  *See generally* Restatement (Third) of Agency §§ 6.01, 6.02. Alaska cases recognize this principle. *See Airline Support*, 279 P.3d 599 (remanding to resolve issues of fact regarding apparent authority to execute assignment); *Askinuk Corp. v. Lower Yukon School District*, 214 P.3d 259, 264-65 (Alaska 2009); *Kay v. Danbar, Inc.*, 132 P.3d 262 (Alaska 2006).

Apparent authority can also be the basis of tort liability. *See generally* Restatement (Third) of Agency § 7.08. *See Anderson*, 148 P.3d at 509 (requiring evidence that plaintiff relied on the defendant’s manifestation that the third-party was its agent, and that this reliance exposed the plaintiff to the third-party’s negligent conduct).

A similar instruction was given in *Cummins, Inc.*, 115 P.3d at 544, where the court affirmed a judgment based on a claim that an engine manufacturer’s statements to the engine’s owner created apparent authority for a repair shop to perform repairs on the manufacturer’s behalf.