CHAPTER FIFTEEN

BAILOR AND BAILEE

LIST OF CONTENTS

INSTRUCTION NO. 15.1 ........................................ BAILMENT --- BAILOR --- BAILEE --- DEFINED
INSTRUCTION NO. 15.2 .................................... BAILOR NOT LIABLE TO THIRD PERSONS FOR
.............................................................................. NEGLIGEncE OF BAILEE
INSTRUCTION NO. 15.3 ................................... INDEMNITY OF BAILEE BY BAILOR --- DUTY OF
INSTRUCTION NO. 15.4 ..................................... GRATUITOUS BAILMENT --- DEFINED
INSTRUCTION NO. 15.5 ..................................... INVOLUNTARY BAILMENT --- DEFINED
INSTRUCTION NO. 15.6 ..................................... INVOLUNTARY BAILMENT IS GRATUITOUS
INSTRUCTION NO. 15.7 ..................................... GRATUITOUS BAILEE --- DUTY OF CARE
INSTRUCTION NO. 15.8 ..................................... GRATUITOUS BAILEE --- VOLUNTARY OR INVOLUNTARY
.............................................................................. BAILEE --- WHEN DUTIES CEASE
INSTRUCTION NO. 15.9 ..................................... BAILMENT FOR HIRE --- DEFINED
INSTRUCTION NO. 15.10 .................................. BAILEE FOR HIRE --- ORDINARY CARE REQUIRED
INSTRUCTION NO. 15.11 .................................. BAILMENTS --- MEASURE OF DAMAGES OF BAILEE TO
.............................................................................. BAILOR
Instruction No. 15.1

**BAILMENT -- BAILOR -- BAILEE -- DEFINED**

A voluntary bailment is made by one giving to another, with [his/her] consent, the possession of personal property to keep for the benefit of the former, or of a third party. The person giving the possession of personal property is called the bailor, and the person receiving the personal property is called the bailee.

**Comments**

15 O.S. 1991 § 442.

Instruction No. 15.2

**BAILOR NOT LIABLE TO THIRD PERSONS FOR NEGLIGENCE OF BAILEE**

A bailor is not liable to third persons for injuries directly caused by negligent use of the personal property by the bailee.

**Notes on Use**

This instruction is not applicable when the bailor has been negligent in making the bailment, for example, entrusting his or her car to a person knowing that person to be intoxicated or an incompetent driver. Neither is this instruction applicable when there is some other relationship between the parties on which the negligence of the bailee may be imputed to the bailor.

**Comments**

*See Skelly Oil Co. v. Darling*, 375 P.2d 917, 920 (Okla. 1962).*
Instruction No. 15.3

**INDEMNITY OF BAILEE BY BAILOR -- DUTY OF**

A bailor must indemnify the bailee:

First, for all injuries directly caused bailee by the [defects/vices] of the thing bailed; and,

Second, for all expenses necessarily incurred by the bailee about the thing, other than such as are involved in the nature of the undertaking.

**Comments**

15 O.S. 1991 § 453.

Instruction No. 15.4

**GRATUITOUS BAILMENT -- DEFINED**

A gratuitous bailment is a bailment for which the bailee receives no compensation beyond the mere possession of the thing bailed.

**Comments**

15 O.S. 1991 § 461.

Instruction No. 15.5

**IN Voluntary BAILMENT -- DEFINED**

An involuntary bailment is made:

First, by the accidental leaving or placing of personal property in the possession of any person, without negligence on the part of its owner; or,
Second, in cases of fire, shipwreck, inundation, insurrection, riot, or like extraordinary emergencies, by the owner of personal property committing it, out of necessity, to the care of any person.

**Notes on Use**

Omit emergency that is not applicable to case in question.

**Comments**

15 O.S. 1991 § 443.

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**Instruction No. 15.6**

**IN Voluntary Bailment Is GratUITous**

An involuntary bailment is gratuitous, the bailee being entitled to no compensation.

**Comments**

15 O.S. 1991 § 462.

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**Instruction No. 15.7**

**GratuitoUs Bailee -- DuTy Of Care**

A gratuitous bailee owes to the bailor the duty to use a slight care for the preservation of the thing bailed.

**Comments**

15 O.S. 1991 § 463.
Instruction No. 15.8

**GRATUITOUS BAILEE -- VOLUNTARY OR INVOLUNTARY BAILEE -- WHEN DUTIES CEASE**

The duties of a gratuitous bailee cease:

First, when [he/she] restores the thing bailed to its owner; or,

Second, when [he/she] gives reasonable notice to the owner to remove it, and the owner fails to do so within a reasonable time. [However, an involuntary bailee cannot give such notice until the emergency that gave rise to the bailment is past.]

**Notes on Use**

When this instruction is given, Instruction 15.6 must also be given.

**Comments**


Instruction No. 15.9

**BAILMENT FOR HIRE -- DEFINED**

A bailment for hire is one that is not gratuitous. The bailee in such case is called a bailee for hire.

**Comments**

Instruction No. 15.10

**BAILEE FOR HIRE -- ORDINARY CARE REQUIRED**

A bailee for hire must use at least ordinary care to preserve the thing bailed. "Ordinary care" is the care which a reasonably careful person would use under the same or similar circumstances.

**Comments**

15 O.S. 1991 § 466.

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Instruction No. 15.11

**BAILMENTS -- MEASURE OF DAMAGES OF BAILEE TO BAILOR**

The bailee's liability for injuries to the thing bailed, directly caused by bailee's negligence, shall not exceed the amount [he/she] is informed by the bailor the thing is worth, or has reason to believe it is worth.

**Comments**

15 O.S. 1991 § 460.