

4025 AGENCY: WITHOUT COMPENSATION

Where a person volunteers his or her services to another, and that other accepts such services, the relation of principal and agent (master and servant) may result, even though there is no agreement between the parties to compensate the volunteer for his or her services, nor any expectation on his or her part to receive compensation therefor.

COMMENT

This instruction and comment were originally published in 1962. Editorial changes were made in 1994 to address gender references in the instruction. The comment was updated in 2004.

Heims v. Hanke, 5 Wis.2d 465, 468, 93 N.W.2d 455 (1958); Kryzko v. Gaudynski, 207 Wis. 608, 615, 242 N.W. 186 (1932); Restatement, second, Agency § 225 (1958).

A servant need not be under formal contract to perform work for a master, nor is it necessary for a person to be paid in order to occupy the position of a servant. Kerl v. Rasmussen, 2004 WI 86, 273 Wis.2d 106, 682 N.W.2d 328.