### IDJI 6.40.6 – Agent or independent contractor

INSTRUCTION NO. \_\_\_\_\_

In an agency relationship, the principal has the right to control the agent’s manner and method of work, whether that right is exercised or not. Where, however, the principal has engaged a contractor for a specific job, result or objective, and the principal does not retain any right to control the manner or method of work, the relation is not an agency but is that of independent contractor. An independent contractor is not an agent. The acts [or omissions] of an independent contractor are not the acts [or omissions] of the principal.

Comments:

*But see*: Harpole v. State, 131 Idaho 437, 958 P.2d 594 (1998); Fagunes v. State, 116 Idaho 173, 774 P.2d 343 (Ct. App. 1989); Peone v. Regulous Stud Mills, Inc., 113 Idaho 374, 744 P.2d 102 (1987) for discussion of exceptions to this rule, including the “peculiar risk doctrine.”