

## CHAPTER 147

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**COURTS**

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**HOUSE BILL 21-1188**

BY REPRESENTATIVE(S) Kennedy, Woodrow;  
also SENATOR(S) Gonzales.

**AN ACT****CONCERNING ADDITIONAL LIABILITY OF A DEFENDANT WHO ADMITS LIABILITY UNDER  
RESPONDEAT SUPERIOR.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 13-21-111.5, **add** (1.5) as follows:

**13-21-111.5. Civil liability cases - pro rata liability of defendants - respondeat superior - shifting financial responsibility for negligence in construction agreements - legislative declaration.** (1.5) (a) NOTWITHSTANDING ANY PROVISION OF SUBSECTION (1) OF THIS SECTION TO THE CONTRARY, WHEN AN EMPLOYER OR PRINCIPAL ACKNOWLEDGES VICARIOUS LIABILITY FOR AN EMPLOYEE'S OR AGENT'S NEGLIGENCE, A PLAINTIFF'S DIRECT NEGLIGENCE CLAIMS AGAINST THE EMPLOYER OR PRINCIPAL ARE NOT BARRED. A PLAINTIFF MAY BRING SUCH CLAIMS, AND CONDUCT ASSOCIATED DISCOVERY, IN ADDITION TO CLAIMS AND DISCOVERY BASED ON RESPONDEAT SUPERIOR.

(b) CONSISTENT WITH CURRENT LAW, NOTHING IN THIS SUBSECTION (1.5) PERMITS A PLAINTIFF TO RECOVER COMPENSATORY AND EXEMPLARY DAMAGES MORE THAN ONCE FOR THE SAME INJURY.

(c) IN ENACTING THIS SUBSECTION (1.5), IT IS THE INTENT OF THE GENERAL ASSEMBLY TO REVERSE THE HOLDING IN *FERRER V. OKBAMICHEL*, 390 P.3d 836 (COLO. 2017), THAT AN EMPLOYER'S ADMISSION OF VICARIOUS LIABILITY FOR ANY NEGLIGENCE OF ITS EMPLOYEES BARS A PLAINTIFF'S DIRECT NEGLIGENCE CLAIMS AGAINST THE EMPLOYER.

**SECTION 2. Act subject to petition - effective date - applicability.** (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to civil actions commenced on or after the applicable effective date of this act.

Approved: May 17, 2021