

PJC 16.1 Employee—Question**PJC 16.1A Employee—Question—When Claimant Appeals**

QUESTION _____

Was *Paul Payne* an employee of *ABC Company* at the time of *his* injury?

“Employee” means a person in the service of another under a contract of hire, whether express or implied, or oral or written.

Answer “Yes” or “No.”

Answer: _____

PJC 16.1B Employee—Question—When Carrier Appeals

QUESTION _____

Was *Paul Payne* not an employee of *ABC Company* at the time of *his* injury?

[Insert PJC 16.1A definition of “employee.”]

Answer “Yes” or “No.”

Answer: _____

COMMENT

When to use. PJC 16.1 is required if there is a dispute about whether the worker is an employee of the subscribing employer. It may be submitted when the question involves the nature of the employment relationship between the injured party and the alleged employer. *See, e.g., Morales v. Liberty Mutual Insurance Co.*, 241 S.W.3d 514, 519 (Tex. 2007).

Burden of proof. The burden of proof should be placed appropriately in accordance with the decision of the appeals panel. *See* PJC 15.1.

Source of definition. *See* Tex. Lab. Code § 401.012. The definition of “employee” differs from that in PJC 10.1 because this chapter uses the statutory definition. However, case law might support using the definition in PJC 10.1 when right to control is in issue.

Control of details of work. The right of control over the details of the work is the determinative test of whether the worker is an employee and can qualify for compen-