CV930 Easement by Necessity. Introduction.

An easement by necessity arises when there is a transfer of property from one owner to another that results in a tract of land becoming landlocked.

[Plaintiff] and [Defendant] are adjoining landowners. [Plaintiff] asserts that because [his/her/its] property is completely landlocked, [he/she/it] should be granted an "easement by necessity" across [Defendant's] property so that [Plaintiff] can get to or from [his/her/its] property from the [public road]. [Defendant] asserts that [Plaintiff] has no right to enter or use [Defendant's] property to access [Plaintiff's] property.

References
Tschaggeny v. Union Pac. Land Res. Corp., 555 P.2d 277, 280 (Utah 1976).
Abraham & Assocs. Trust v. Park, 2012 UT App 173, ¶ 12, 282 P.3d 1027, 1030–31.

Committee Notes
The term "public road" is meant to be illustrative only and it may be appropriate to replace it with a more specific description in a given case.

CV931 Easement by Necessity. Elements of a claim for access to landlocked property.

To succeed on this claim, [Plaintiff] must prove by clear and convincing evidence each of the following elements:

(1) All of the property was once owned by a single landowner who then divided the land and transferred away one tract of land, creating a landlocked property; and

(2) The easement is reasonably necessary to the enjoyment of the landlocked property.

References
Morris v. Blunt, 49 Utah 243, 161 P. 1127, 1132 (1916).
Savage v. Nielsen, 114 Utah 22, 31–33, 197 P.2d 117, 121–22 (1948).
Tschaggeny v. Union Pac. Land Res. Corp., 555 P.2d 277, 280 (Utah 1976).
Potter v. Chadaz, 1999 UT App 95, ¶ 18, 977 P.2d 533, 538.
David A. Thomas & James H. Backman on Utah Real Property Law, Easement by Necessity, § 12.02(b)(2)(ii), at 341 (ed. 2021).

Committee Notes
This instruction applies to cases based solely upon a claim of an easement by necessity. Other easement claims will require proof of additional elements. *Tschaggeny v. Union Pac. Land Res. Corp.*, 555 P.2d 277, 280 (Utah 1976).