

**CV1740 Elements of abuse of process.**

[Name of plaintiff] asserts that [name of defendant] abused the legal process in [name of defendant]'s actions against [name of plaintiff]. To succeed in this claim [name of plaintiff] must prove by a preponderance of the evidence that:

(1) [name of defendant] misused the legal process, meaning the formal steps that a defendant takes in a legal action;

(2) primarily for an improper purpose or a purpose that the legal process was not designed for;

(3) the improper purpose was shown by at least one additional willful act outside of the legal process that confirmed the defendant's bad motive; and

(4) [name of defendant]'s misuse of the legal process caused [name of plaintiff] harm.

**References**

*Mackey v. Krause*, 2025 UT 37, ¶¶ 95-96, 575 P.3d 1162.

*Moss v. Parr Waddoups Brown Gee & Loveless*, 2012 UT 42, ¶ 37 n.6, 285 P.3d 1157.

*Mountain W. Surgical Ctr., LLC v. Hospital Corp. of Utah*, 2007 UT 92, ¶ 11, 173 P.3d 1276.

*Hatch v. Davis (Hatch II)*, 2006 UT 44, ¶¶ 34-40, 147 P.3d 383.

*Tomlinson v. NCR Corp.*, 2013 UT App 26, ¶¶ 14-15, 296 P.3d 760, *rev'd on appeal on other grounds*, 2014 UT 55, 345 P.3d 523.

**Committee Notes**

See *Mackey v. Krause*, 2025 UT 37, ¶ 103 (not reaching the question of whether a false report to DCFS could qualify as abuse of legal process).

**CV1741 Use of legal process for intended purpose.**

If [name of defendant] used the legal process against [name of plaintiff] primarily for its proper and intended purpose, the fact that [name of defendant] received some secondary benefit does not support an abuse of process claim.

In deciding whether [name of defendant] used the legal process against [name of plaintiff] primarily to accomplish an improper purpose or a purpose that process was not designed for, you must consider whether [name of defendant] attempted to obtain an advantage or gain other than the outcome of the legal process itself.

**References**

*Hatch v. Davis (Hatch II)*, 2006 UT 44, ¶¶ 34-40, 147 P.3d 383.

*Tomlinson v. NCR Corp.*, 2013 UT App 26, ¶¶ 15-16, 296 P.3d 760, *rev'd on appeal on other grounds*, 2014 UT 55, 345 P.3d 523.

*Puttuck v. Gendron*, 2008 UT App 362, ¶ 14, 199 P.3d 971.  
*Hatch v. Davis (Hatch I)*, 2004 UT App 378, ¶ 33, 102 P.3d 774.

**CV1742 Intent and knowledge of a company.**

[Name of plaintiff] must show that [defendant company] intentionally misused the legal process. To satisfy this requirement, [name of plaintiff] must show that at least one agent of [defendant company] had all of the required knowledge necessary to establish the elements of the abuse of process claim.

**References**

*Helf v. Chevron U.S.A. Inc.*, 2015 UT 81, ¶ 28, 361 P.3d 63.