

MINUTES

Advisory Committee on Model Civil Jury Instructions

April 14, 2025

4:00-6:00 p.m.

Present: Alyson McAllister, Stewart Harmon, John Macfarlane, Mark Morris, Bill Egginton, Ben Lusty, Michael D. Lichfield, Judge Brian D. Bolinder, Jace Willard (staff), Kara H. North (staff).

Excused: Ricky Shelton

Guests: Monica Howard

1. Welcome and Approval of Minutes

Ms. McAllister welcomed the Committee. The Minutes from February meeting were approved.

2. Leadership Update and Pending Vacancy

Ms. McAllister informed the Committee that Mr. Harmon has been appointed as the Vice-Chair of the Committee and that the pending vacancy resulting from Doug Mortensen's recent completion of his second term on the Committee will likely be filled shortly.

3. CV1710 Battery

Ms. McAllister invited Monica Howard to address the draft CV1710 instruction for Battery. Ms. Howard noted the need for some additional changes, primarily to recognize that acting with the intent to put a plaintiff in fear of an imminent contact may satisfy the first element of the tort. Ms. Howard also suggested including the case *Erickson v. Canyon School District*, 2020 UT App 91 to the references at the bottom of the instruction. The Committee discussed concerns about different kinds of "contact," including over the phone, or virtual, and clarified that the contact must be physical to qualify as battery. A motion was made to approve the Battery instruction, and this motion was unanimously approved.

4. Other CV1700 Series Instructions

Ms. McAllister suggested that the committee note included in the Battery instruction, referencing the definition of harmful and offensive contact in CV1701, likewise be added to the CV1700 Assault instruction. This motion was made by Mr. Harmon and seconded by Mr. Lichfield and unanimously approved. The Committee further discussed the CV1700 series of instructions numbering. Ms. McAllister noted that CV1721 should be changed to CV1731. Mr. Willard acknowledged that this could be updated administratively. The Committee approved publication of all of the CV1700 series instructions: CV1700 Assault; CV1701 Harmful or Offensive Physical Contact Defined; CV1710 Battery; CV1720 False Imprisonment; CV1730 Malicious Prosecution; and CV1731 Definition of Probable Cause in Malicious Prosecution Claim.

5. Progress on Instruction Topics

Ms. McAllister reviewed the list of topics in the MUJI Civil Upcoming Queue table as follows:

- a. Number 1000: Ms. McAllister informed the Committee that the product liability subcommittee now includes Judge Todd Shaughnessy and that the group is working on instructions reflecting the implications of the *RC Willey* case.
- b. Number 1700: Ms. McAllister requested that Monica Howard be formally added to the Assault/Battery subcommittee since she's been appearing in the committee meetings. Ms. McAllister requested that David Reymann be invited to share his draft instructions regarding Abuse of Process.
- c. Number 2400: Mr. Harmon updated the committee that the Insurance subcommittee does not include Kigan Martineau, but includes Mr. Harmon, Andrew Wright, Rick Vazquez, Jake Hinkins, Dan Bertch, and Bruce Pritchett.
- d. Number 2700: Mr. Harmon will reach out to Adam Buck to see if they have been successful in filling their subcommittee regarding directors' and officers' liability.
- e. Number 2500: Mr. Willard will reach out to the chair of the subcommittee to see if they need any assistance moving things forward.
- f. Number 2300: Mr. Willard will reach out to the chair of the subcommittee to see if they need any assistance moving things forward.
- g. Linguistics and Law: Mr. Eggington updated the MUJI committee that the linguistics subcommittee has split into two subcommittees to address (1) general understandability of the MUJI (Civil) instructions, and (2) the changing meaning of reasonableness.
- h. Ms. McAllister asked Mr. John Macfarlane if he would be drafting an updated jury instruction on medical malpractice to account for the statutory change that will come into effect in May. Mr. Macfarlane agreed to begin working on that.

Next meeting is May 12, 2025 at 4:00 p.m.