

Judicial Council Standing Committee on
Model Utah Civil Jury Instructions

Agenda

August 11, 2025

4:00 to 6:00 p.m.

Via [Webex](#)

Welcome and Approval of April Minutes	Tab 1	Alyson
New Member Update (Kara North)		Alyson/Stewart
Public Comments re CV1700 series	Tab 2	Monica Howard
CV331 Draft Instruction (past and future medical expenses)	Tab 3	John Macfarlane
CV340 Series Draft Instructions (abuse of process)	Tab 4	Alyson/Stewart
Progress on Instruction Topics	Tab 5	(Informational)

[Committee Web Page](#)

[Published Instructions](#)

Meeting Schedule: Monthly on the 2nd Monday at 4 pm

Next meeting: Sept. 8, 2025

TAB 1

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.

TAB 2

Instruction	Public Comment
<p>CV1730 Malicious Prosecution.</p> <p>[Name of plaintiff] claims [name of defendant] harmed [him] through a malicious prosecution. To succeed on this claim, [name of plaintiff] must prove the following four elements:</p> <p>(1) [name of defendant] began or continued criminal proceedings against [name of plaintiff]; and</p> <p>(2) [name of defendant] did not have probable cause to begin or continue criminal proceedings; and</p> <p>(3) [name of defendant]'s primary motivation was something other than bringing a criminal to justice; and</p> <p>(4) The criminal proceedings against [name of plaintiff] ended in [name of plaintiff]'s innocence.</p> <p>References</p> <p>Neff v. Neff, 2011 UT 6, ¶ 52, 247 P.3d 380.</p> <p>Gilbert v. Paul R. Ince & Callister, 1999 UT 65, ¶ 18, 981 P.2d 841.</p> <p>Hodges v. Gibson Prods. Co., 811 P.2d 151, 156 (Utah 1991).</p> <p>Vandermeide v. Young, 2013 UT App 31, ¶ 27, 296 P.3d 787.</p> <p>Cline v. State, Div. of Child & Family Servs., 2005 UT App 498, 142 P.3d 127.</p> <p>Amica Mut. Ins. Co. v. Schettler, 768 P.2d 950, 959 (Utah Ct. App. 1989).</p> <p>Callioux v. Progressive Ins. Co., 745 P.2d 838, 843 (Utah Ct. App. 1987).</p> <p>Johnson v. Mount Ogden Enterprises, Inc., 23 Utah 2d 169, 460 P.2d 333 (Utah 1969).</p> <p>Restatement (Second) of Torts §§ 653, 660 cmt. a (1977).</p>	<p>From: Dallas Young 4/29/2025 at 11:56 a.m. Re: CV1730:</p> <p>(1) A citizen doesn't have authority to begin or continue criminal proceedings. Only a prosecutor can do that. This needs to be re-worded. I've suggested some alternate language in my comment to CV1731(3)</p> <p>(3) Use of "bringing a criminal to justice" is unduly inflammatory and inconsistent with the presumption of innocence and the State's burden of proof. Why not use something like, "[name of defendant]'s primary motivation was something other than securing the prosecution of an offense."</p> <p>(4) is also problematic from a pragmatic standpoint. A verdict of acquittal isn't a finding of innocence (in theory, anyway). There is no vehicle in a criminal case to have someone declared factually innocent. Plus, that's not at all how that element is phrased in the Restatements (as quoted in Neff ¶ 52, anyway). As I read Neff, this proposed statement of the element is not a correct statement of the law. -Although I will give you that the court in Neff could have been more careful to distinguish between a criminal case ending in a defendant's favor and actual innocence. It might be worth consulting cases involving indemnity for accused public employees. I litigated this several years ago and while I think the Utah cases addressing the statute (Acor v. SLC School District, 2011 UT 8, Olsen v. Eagle Mt. City, 2011 UT 10, Christensen v. Juab School Dist., 2017 UT 47, for example) didn't reach this issue, there are other jurisdictions where there has been litigation over what constitutes a disposition favorable to the defendant. There's also discussion in attorney's fee cases over who is the prevailing</p>

	<p>party. Those all seem to capture the essence of what’s in play here and might have helpful language.</p>
<p>CV1731 Definition of Probable Cause in Malicious Prosecution Claim.</p> <p>[Name of defendant] has probable cause for beginning or continuing criminal proceedings against [name of plaintiff] if:</p> <ul style="list-style-type: none"> (1) [name of defendant] believes [name of plaintiff] was guilty; and (2) A reasonable person in [name of defendant]'s position would believe [name of plaintiff] was guilty; and (3) [name of defendant] is sufficiently informed as to the facts and applicable law to justify [name of defendant] beginning or continuing the criminal proceeding. <p>References</p> <p>Neff v. Neff, 2011 UT 6, ¶ 58 n.34, 247 P.3d 380.</p> <p>Hodges v. Gibson Prods. Co., 811 P.2d 151, 158 (Utah 1991).</p> <p>Restatement (Second) of Torts § 662 (1977).</p>	<p>From: Dallas Young 4/29/2025 at 11:56 a.m.</p> <p>Re: C1731: That isn’t the probable cause standard. Why strike out on your own in how to formulate it? There’s a well-worn definition in criminal cases in the preliminary hearing context. E.g., State v. Virgin, 2006 UT 29, ¶ 18. Seems like re-inventing the wheel here is a bad idea. Just use the formulation that’s used every day in criminal cases.</p> <p>(3) needs a little re-wording because a citizen can’t begin or continue a criminal proceeding. It’d be better to refer to it as procuring a prosecution. Or maybe refer to it as “make a request to law enforcement or a prosecutor to initiate criminal proceedings.” Something along those lines.</p>

CV1701 Assault.

[Name of plaintiff] claims that [name of defendant] assaulted [him]. To succeed on this claim, [name of plaintiff] must prove the following:

- (1) [name of defendant] acted intending to
 - (a) cause harmful or offensive contact with [name of plaintiff]; or
 - (b) put [name of plaintiff] in fear of an immediate harmful or offensive contact;and
- (2) [name of plaintiff] was aware of [name of defendant]'s action and recognized the harmful or offensive contact was about to occur.

Physical contact does not have to occur.

References

Reynolds v. Macfarlane, 2014 UT App 57, ¶ 7, 322 P.3d 755.

Tiede v. State, 915 P.2d 500, 503 n.3 (Utah 1996).

D.D.Z. v. Molerway Freight Lines, Inc., 880 P.2d 1, 3 (Utah Ct. App. 1994), overruled on other grounds in *Stephens v. Bonneville Travel, Inc.*, 935 P.2d 518 (Utah 1997).

Restatement (Second) of Torts § 21 (1965).

Tingey v. Midwest Off., Inc., No. 1:22-CV-00145-TC, 2023 WL 8602841, at *3 (D. Utah Dec. 12, 2023) (unpublished).

Billy v. Edge Homes, No. 2:19-CV-00058-JNP-EJF, 2020 WL 2572522, at *5 (D. Utah May 21, 2020) (unpublished).

Committee Notes

For the definition of harmful or offensive physical contact, *see* CV1702.

MUJI 1st Instructions

10.17, 10.18

CV1702 Harmful or Offensive Physical Contact Defined.

Contact is harmful or offensive if [name of plaintiff] did not consent to the contact either directly or by implication. This includes all physical contact that:

- (1) [Name of plaintiff] expressly communicated was unwanted; or
- (2) No reasonable person would consent to.

Reference

Wagner v. Utah Dep't of Human Servs., 2005 UT 54, ¶ 51, 122 P.3d 599.

CV1710 Battery.

[Name of plaintiff] claims that [name of defendant] committed a battery against [him or her]. To succeed on this claim, [name of plaintiff] must prove the following:

1. [name of defendant] acted intending to:
 - a. make physical contact with [name of plaintiff] or another person; or
 - b. put [name of plaintiff] in fear of an immediate physical contact;
- and
2. contact with [name of plaintiff] was the direct or indirect result; and
3. the contact was harmful or offensive.

References

Wagner v. Utah Dep't of Human Servs., 2005 UT 54.

Erickson v. Canyons Sch. Dist., 2020 UT App 91.

Reynolds v. MacFarlane, 2014 UT App 57.

D.D.Z. v. Molerway Freight Lines, Inc., 880 P.2d 1, 3 (Utah Ct. App. 1994), overruled on other grounds in *Stephens v. Bonneville Travel, Inc.*, 935 P.2d 518 (Utah 1997).

Restatement (Second) of Torts § 13 (1965).

Committee Notes

For the definition of harmful or offensive physical contact, *see* CV1702.

CV1720 False Imprisonment.

[Name of plaintiff] claims [name of defendant] falsely imprisoned [him]. To succeed on this claim, [name of plaintiff] must prove the following elements:

- (1) [Name of defendant] acted with intent to confine, restrain, or detain [name of plaintiff]; and
- (2) [Name of plaintiff] was directly or indirectly confined, restrained, or detained unlawfully by [name of defendant]; and
- (3) [Name of plaintiff] knew that [he] was confined, restrained, or detained without [his] consent or was harmed by the confinement, restraint, or detention.

[Name of plaintiff] can be confined, restrained, or detained through physical force, verbal threats, or any other actions that would reasonably lead [him] to believe [he] is not free to leave.

References

Tiede v. State, 915 P.2d 500, 503 n.4 (Utah 1996).
McFarland v. Skaggs Cos., 678 P.2d 298, 301 (Utah 1984).
Terry v. Zions Coop. Mercantile Inst., 605 P.2d 314 (Utah 1979).
Tolman v. K-Mart Enters., 560 P.2d 1127, 1128 (Utah 1977).
Mildon v. Bybee, 13 Utah 2d 400, 375 P.2d 458 (Utah 1962).
Hepworth v. Covey Bros. Amusement Co., 97 Utah 205, 210, 91 P.2d 507, 509 (Utah 1939).
Smith v. Clark, 37 Utah 116, 106 P. 653 (Utah 1910).
State v. Pass, 30 Utah 2d 197, 200, 515 P.2d 612, 613 (Utah 1973).
Lee v. Langley, 2005 UT App 339, ¶ 19, 121 P.3d 33.
Restatement (Second) of Torts § 35 (1965).

MUJI 1st Instruction

10.14, 10.15

CV1730 Malicious Prosecution.

[Name of plaintiff] claims [name of defendant] harmed [him] through a malicious prosecution. To succeed on this claim, [name of plaintiff] must prove the following four elements:

- (1) [name of defendant] began or continued criminal proceedings against [name of plaintiff]; and
- (2) [name of defendant] did not have probable cause to begin or continue criminal proceedings; and
- (3) [name of defendant]'s primary motivation was something other than bringing a criminal to justice; and
- (4) The criminal proceedings against [name of plaintiff] ended in [name of plaintiff]'s innocence.

References

Neff v. Neff, 2011 UT 6, ¶ 52, 247 P.3d 380.
Gilbert v. Paul R. Ince & Callister, 1999 UT 65, ¶ 18, 981 P.2d 841.
Hodges v. Gibson Prods. Co., 811 P.2d 151, 156 (Utah 1991).
Vandermeide v. Young, 2013 UT App 31, ¶ 27, 296 P.3d 787.
Cline v. State, Div. of Child & Family Servs., 2005 UT App 498, 142 P.3d 127.
Amica Mut. Ins. Co. v. Schettler, 768 P.2d 950, 959 (Utah Ct. App. 1989).
Callioux v. Progressive Ins. Co., 745 P.2d 838, 843 (Utah Ct. App. 1987).
Johnson v. Mount Ogden Enterprises, Inc., 23 Utah 2d 169, 460 P.2d 333 (Utah 1969).
Restatement (Second) of Torts §§ 653, 660 cmt. a (1977).

MUJI 1st Instruction

10.19

Committee Notes

Where the innocence requirement is at issue, the Committee recommends reviewing the Restatement (Second) of Torts § 660 (1977).

CV1731 Definition of Probable Cause in Malicious Prosecution Claim.

[Name of defendant] has probable cause for beginning or continuing criminal proceedings against [name of plaintiff] if:

- (1) [name of defendant] believes [name of plaintiff] was guilty; and
- (2) A reasonable person in [name of defendant]'s position would believe [name of plaintiff] was guilty; and
- (3) [name of defendant] is sufficiently informed as to the facts and applicable law to justify [name of defendant] beginning or continuing the criminal proceeding.

References

Neff v. Neff, 2011 UT 6, ¶ 58 n.34, 247 P.3d 380.
Hodges v. Gibson Prods. Co., 811 P.2d 151, 158 (Utah 1991).
Restatement (Second) of Torts § 662 (1977).

TAB 3

CV331 Past and future medical expenses.

In medical malpractice cases, expenses incurred for medical care or medical devices by the Plaintiff prior to trial are determined by the judge. You will not hear evidence regarding the amount Plaintiff has spent on medical-related expenses in the past and must not let the absence of such evidence influence your decisions on other issues in the case. You will, however, be asked to determine what award, if any, should be made for future medical expenses or medical equipment for the Plaintiff.

References

Utah Code § 78B-3-405.5 (eff. May 7, 2025).

TAB 4

CV1740 Elements of abuse of process.

[Name of plaintiff] asserts that [name of defendant] abused the criminal prosecution of [name of plaintiff]. To succeed in this claim [name of plaintiff] must prove by a preponderance of the evidence that:

- (1) [name of defendant] used the criminal prosecution
- (2) primarily to accomplish an improper purpose or a purpose for which that process was not designed; and
- (3) [name of defendant] engaged in at least one additional willful act independent of [name of plaintiff]'s criminal prosecution that corroborated [name of defendant]'s intention to accomplish the improper purpose for which the criminal prosecution was not designed; and
- (4) [name of defendant]'s use of the criminal prosecution caused [name of plaintiff] harm.

References

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.

CV1741 Use of legal process for intended purpose.

If [name of defendant] used the criminal prosecution against [name of plaintiff] primarily for its proper and intended purpose, the fact that the criminal prosecution had some other secondary effect does not support an abuse of process claim.

Instead, in deciding whether [name of defendant] used [name of plaintiff]'s criminal prosecution primarily to accomplish an improper purpose or a purpose for which that process was not designed, you must consider whether [name of defendant] attempted to obtain an advantage or gain other than the outcome of the criminal prosecution itself. For example, an improper purpose usually but not always involves coercing another through the use of the legal process to obtain something like the payment of money or compelling the victim to do something which he would not otherwise be legally obligated to do.

Conversely, filing a police report, even a knowingly false police report, in order to hurt someone's reputation without evidence of something more does not show an improper purpose because intimidation and desire to hurt a reputation, alone, do not suggest an advantage or gain that [name of defendant] would receive apart from the criminal prosecution 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 Willful act requirement.

To satisfy the “willful act” requirement of an abuse of process claim, [name of plaintiff] must prove that [name of defendant] engaged in at least one other act outside the pursuit of the criminal prosecution that confirmed its bad motive for employing legal process.

References

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

Hatch v. Davis (Hatch II), 2006 UT 44, ¶¶ 39-40, 147 P.3d 383.

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

CV1743 Intent and knowledge of a corporation.

[Name of plaintiff]’s claim for abuse of process requires him to show that [name of defendant] acted intentionally in using the criminal process for an improper or ulterior purpose and in engaging in a willful act outside of that process. Because [name of defendant] is a corporation, it has many employees who may or may not have knowledge about various things. To satisfy his burden of showing intentional conduct by [name of defendant], [name of plaintiff] cannot piece together the knowledge of different [name of defendant] employees, each of whom may only know part of the story. Rather, [name of plaintiff] must show that at least one [name of defendant] employee had all of the required knowledge necessary to establish the elements of his abuse of process claim.

References

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

TAB 5

MUJI Civil Upcoming Queue:

Numbers	Subject	Members	Progress	Next Report Date
1000	Products Liability	Tracy Fowler, Paul Simmons, Judge Todd Shaughnessy	Appeared on Agenda November 2021. Continuing to work and will report back.	2025
1700	Assault / Battery / False Arrest / Malicious Prosecution	Mitch Rice, David Cutt, Andrew Wright, Alyson McAllister, Monica Howard	Mitch Rice and Monica Howard presented draft instructions in May 2024. Monica returned in December 2024 and committee approved assault, false arrest, and malicious prosecution instructions. Battery instruction approved in April 2025 and all instructions published for comment.	August 2025
2400	Insurance	Andrew Wright, Richard Vazquez, Stewart Harman, Dan Bertch, Bruce Pritchett, Jake Hinkins	Appeared on Agenda March 2022. Feb. 2025 Stewart indicates the group is awaiting a decision on appeal.	
	Unjust Enrichment		Stacy was researching and following up on these instructions.	
1700	Abuse of Process		Marianna could only find notes as to intention to form this subcommittee. David Reymann submitted his prior draft instructions.	August 2025
2700	Directors and Officers Liability	Adam Buck	April 2025 - Stewart will contact	
2500	Wills / Probate	Matthew Barneck; Rustin Diehl	Matthew and Rustin have met to discuss direction and have started reaching out to various recommendations – Elder law section, Probate Subcommittee, WINGS, recommended individuals. Alyson, Stewart, and Jace to follow up on this one.	
2300	Sales Contracts and Secured Transactions	Matthew Boley, Ade Maudsley	Matthew and Addie are willing to work on this topic and would like more feedback from the Committee. Alyson, Stewart, and Jace to follow up on this one.	
	Case law and Statutory Updates	TBD	Previous chairs or group leads may have feedback. April 2025 John Macfarlane will draft instruction on recent statutory changes affecting	

			med mal cases (presentation of medical bills?).	
	Linguistics and Law I - General	Bill Eggington, Judge Kelly, John Macfarlane, Michael Lichfield, Robert Cummings, Clark Cunningham, Jesse Egbert, Scott Jarvis	Presented Feb. 2025. Have identified instructions potentially in need of plain-language adjustments; awaiting feedback on work; desire to work with MUJI (Crim) as well	
	Linguistics and Law II - Reasonableness	Judge Bolinder, Bill Eggington, Ben Lusty	Bill presented Feb. 2025 on the changing meaning of reasonableness; this subcommittee would also like to work with MUJI (Crim)	

Archived Topics:

Numbers	Subject	Completed
1500	Emotional Distress	December 2016
200 / 1800	Fault / Negligence	October 2017
1300	Civil Rights: Set 1 and 2	September 2017
1400	Economic Interference	December 2017
1900	Injurious Falsehood	February 2018
1200	Trespass and Nuisance	October 2019
100	Uniformity	February 2020
1600	Defamation Update	March 2022, December 2022
135	Pretrial Delay	December 2022, February 2023
107A	Avoiding Bias	May 2023, February 2025
632, 632A-632D	Minimum Injury Requirements Update and New	October 2023
132A	Remote Testimony	October 2023
2021	Present Cash Value Update	October 2023, Feb. 2025
900	Easements (prescriptive 920-925, easement by necessity 930-931, and easement by implication, 940-941)	February 2024, Feb. 2025
301B/301C	Elements of a Medical Negligence Claim; Standard of Care	December 2024
324	Use of Alternative Treatment Methods (removed with explanatory committee note)	December 2024
2015	Survival claim (amended committee note)	December 2024