

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Tingey v. Midwest Off., Inc., No. 1:22-CV-00145-TC, 2023 WL 8602841, at *3 (D. Utah Dec. 12, 2023) (unpublished).

Billy v. Edge Homes, No. 2:19-CV-00058-JNP-EJF, 2020 WL 2572522, at *5 (D. Utah May 21, 2020) (unpublished).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