

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).

