

MINUTES

Advisory Committee on Model Civil Jury Instructions

April 10, 2023

4:00 p.m.

Present: Judge Kent Holmberg, Judge Keith A. Kelly, Lauren A. Shurman, Alyson McAllister, William Eggington, Ruth A. Shapiro, Douglas G. Mortensen, Mark Morris, Adam D. Wentz, Samantha Slark, Jace Willard (staff).

Also present: Adam Pace, Robert Cummings, Samantha Slark, Robert Fuller

Excused: Ricky Shelton

1. *Welcome.*

Alyson McAllister welcomed the Committee.

2. *Approval of Minutes.*

January and February, 2023 meeting minutes approved.

3. *CV920 Easement Defined.*

- Adam Pace joined the meeting to discuss the proposed instruction.
- The Committee made various edits to simplify and improve clarity.
- Added *Tschaggeny v. Union Pac. Land Resources Corp.*, 555 P.2d 277 (Utah 1976) and *Valcarce v. Fitzgerald*, 961 P.2d 305, 311 (Utah 1998) as a reference citations to the instruction.
- Committee changed easement by prescription instructions numbering system.

4. *CV930 Easement by Necessity. Introduction.*

- Robert Cummings joined the meeting to discuss the proposed instruction.
- Committee reviewed the instruction as drafted and made no changes.

5. *CV931 Easement by Necessity. Elements of a claim for access to landlocked property.*

- Removed *Abraham & Assoc. Trust v. Park*, 2012 UT App 173, 282 P.3d 1027, 1031 as a referenced citation.

6. *CV940 and CV941. New easement by implication instructions.*

- Committee created new “Introduction” and “Elements” instructions for easement by implication.
- Robert Fuller’s group to consider (1) modifying CV940 “Introduction” draft to include fact summary statement similar to what is in the CV930 “Introduction” draft, and (2) the need for and potential form of a separate instruction defining “continuous” as used in element 4 of CV941 “Elements” draft.

7. CV632 Threshold

- Committee discussed whether the note providing examples of permanent injury should be included or not. Will address next time.
- Discussed whether the word “threshold” would be easily understood by jurors. Replaced it with “minimum injury requirements.”
- Committee agreed to circle back at the beginning of next month’s meeting.

8. Adjournment.

The meeting concluded at 6:03 PM.