

**13-1636. Malicious abuse of process defined; general statement of elements.**

To establish a claim of malicious abuse of process, \_\_\_\_\_ (*name of the plaintiff*) has the burden of proving each of the following contentions:

(1) In a judicial proceeding, \_\_\_\_\_ (*name of the defendant*) [misused the legal process] [actively participated in misusing the legal process];

(2) \_\_\_\_\_ (*name of the defendant*)'s primary motive in [misusing the legal process] [actively participating in misusing the legal process] was to accomplish an illegitimate end; and

(3) The conduct of \_\_\_\_\_ (*name of the defendant*) caused damages to \_\_\_\_\_ (*name of the plaintiff*).

**USE NOTES**

These are the basic elements of the tort of malicious abuse of process. Definitions for specific elements and for the terms used in this instruction follow and should be used, as appropriate, depending on the specific claim made.

Either UJI 13-1639 NMRA (probable cause) or UJI 13-1640 NMRA (procedural impropriety) should be used together with this instruction, depending on the claim. [Adopted by Supreme Court Order No. 09-8300-033, effective October 19, 2009.]