

**13-1638. Malicious abuse of process; "active participation" defined.**

In this case, \_\_\_\_\_ (*name of the plaintiff*) has claimed that \_\_\_\_\_ (*name of the defendant*) actively participated in [bringing the judicial proceeding] [ \_\_\_\_\_ (*describe the other legal process that the plaintiff claims was misused*)] against \_\_\_\_\_ (*name of the plaintiff*). A [person] [corporation] actively participates in [bringing a judicial proceeding] [ \_\_\_\_\_ (*describe the legal process that the plaintiff claims was misused*)] if [his] [her] [its] conduct is the determining factor in the decision to [file the lawsuit] [ \_\_\_\_\_ (*describe the other legal process the plaintiff claims was misused*)]. Merely providing encouragement, advice, or information is not enough.

USE NOTES

This instruction defining active participation should be used any time one or more of the defendants is not a party to the underlying criminal, civil, or arbitration proceeding in which the plaintiff's claim of malicious abuse of process arose.

[Adopted by Supreme Court Order No. 09-8300-033, effective October 19, 2009.]