

3.20 FALSE IMPRISONMENT (FALSE ARREST) (Approved 6/89)

A. GENERAL RULES TO BE CHARGED IN ALL CASES

False imprisonment is the unlawful detention of an individual. In this context the word "detention" means the restraint of a person's personal liberty or freedom of movement and the word "unlawful" means without legal authority or justification.

An unlawful restraint may result from actual force or by threats consisting of words or conduct if the words or conduct are such as to include a reasonable apprehension of force and the means of coercion are at hand.

The unlawful detention need not be for more than a minimal length of time since even a brief restraint of a person's freedom is sufficient to constitute false imprisonment.

The restraint must be against the plaintiff's will. If he/she agreed of his/her own free choice to surrender his/her freedom of motion or personal liberty, there is no false imprisonment.

To be a false imprisonment, the defendant's conduct in restraining the plaintiff must have been done with the intention of causing a confinement. A purely accidental confinement without the intent to confine is not a false imprisonment nor is the confinement merely because of the negligence of defendant a false imprisonment.

It is not necessary that a defendant was motivated by malice in the sense of ill will or a desire to injure, although, as I shall explain shortly, the presence or absence of malice may be shown to increase or minimize damages.

(Here discuss facts relied upon by plaintiff to establish the false imprisonment. If the defendant denies that plaintiff was, in fact, falsely imprisoned or alleges that it was not intentional or that it was voluntary on plaintiff's part, etc., that issue should be stated to the jury. If the detention was under assertion of legal authority the appropriate section of the following should be added.)