

2005 BATTERY: BODILY HARM

A battery occurred if:

1. (Defendant) intentionally caused bodily harm to (plaintiff); and
2. (Plaintiff) did not consent to the harm.

"Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.

The requirement that (defendant) intended to cause bodily harm means that (defendant) had the mental purpose to cause bodily harm to (plaintiff) (or another person) or was aware that his or her conduct was practically certain to cause bodily harm to (plaintiff) (or another person).

COMMENT

This instruction and comment were originally approved in 1977. The instruction was revised in 1994 and 2009. The comment was updated in 2010.

The definition of a battery is taken from Vosburg v. Putney, 80 Wis. 523, 50 N.W. 403 (1891), and McClusky v. Steinhorst, 45 Wis.2d 350, 173 N.W.2d 148 (1970). See also Trogun v. Fruchtman, 58 Wis.2d 569, 207 N.W.2d 297 (1973).

When there has been a bodily contact, without injury except to the dignity and personal sensibilities of the person subjected to the battery, use Wis JI-Civil 2005.5.

See also Wis JI-Criminal 1220.

For a suggested verdict in a case involving an alleged battery by one tortfeasor and negligence by another tortfeasor, see JI-Civil 1580, Comment.