

2100 FALSE IMPRISONMENT

Question _____ asks: Did (Defendant) falsely imprison (Plaintiff) on _____?

False imprisonment is the unlawful restraint by one person of the physical liberty of another person. Before you may find that (Defendant) falsely imprisoned (Plaintiff), you must find the following:

1. (Defendant) confined or restrained (Plaintiff).

Although this requires actual restraint or confinement, it does not require that it be in a jail or prison. If (Defendant) deprived (Plaintiff) of freedom of movement, or compelled (him) (her) to remain where (he) (she) did not wish to remain, then (Plaintiff) was confined or restrained. The use of physical force is not required. One may be confined or restrained by acts or words or both;

2. (Defendant) confined or restrained (Plaintiff) intentionally.

This means that (Defendant) acted with purpose to confine or restrain (Plaintiff) or knew that the confinement or restraint would be substantially certain;

3. (Defendant) did not have lawful authority to confine or restrain (Plaintiff); and
4. (Plaintiff) was confined or restrained without (his) (her) consent.

COMMENT

This instruction and comment were approved in 1974 and revised in 2014.

The essence of false imprisonment is the intentional, unlawful, and unconsented restraint by one person of the physical liberty of another. Herbst v. Wuennenberg, 83 Wis.2d 768, 266 N.W.2d 391 (1978).

False imprisonment defined: intent an element, Strong v. Milwaukee, 38 Wis.2d 564, 157 N.W.2d 619 (1968) (this case refers to Wis JI-Civil 2100).

Unlawful restraint, Weber v. Young, 250 Wis. 307, 311, 26 N.W.2d 543 (1947); Maniaci v. Marquette University, 50 Wis.2d 287, 184 N.W.2d 168 (1971).

False imprisonment against officer: Where the writ is defective on its face or beyond the jurisdiction of the officer issuing process, the officer serving process is not protected. The officer serving process is bound to know what the law is. Rubin v. Schrank, 207 Wis. 375, 378, 241 N.W. 370 (1932). Lueck v. Heisler and another, 87 Wis. 644, 646, 58 N.W. 1101 (1894).

Citizen's arrest (department store floor walker): Cobb v. Simon, 119 Wis. 597, 97 N.W. 276 (1903).

Unlawful imprisonment where no force or violence is actually used: Gunderson v. Struebing, 125 Wis. 173, 177, 104 N.W. 149 (1905).

False imprisonment may not be predicated upon a person's unfounded belief that he or she was restrained. Herbst v. Wuennenberg, supra.

For burden of proof, see Bursack v. Davis, 199 Wis. 115, 225 N.W. 738 (1929).