

## Civil Actions for False Imprisonment

False imprisonment is the unlawful restraint of a person without consent or legal justification. False imprisonment can be committed by words, acts, or by both[i]. The common law tort of false imprisonment is defined as an unlawful restraint of an individual's personal liberty or freedom of movement[ii]. In order to constitute the wrong it is not necessary that the individual be actually confined or assaulted[iii].

It is to be noted that, there is no necessity in a false imprisonment case to prove that a person used physical violence or laid hands on another person. It is sufficient to show that at any time or place the person in any manner deprived another person of his/her liberty without sufficient legal authority[iv].

False arrest is sometimes used interchangeably with false imprisonment. False arrest is the unlawful violation of the personal liberty of another consisting of detention without sufficient legal authority. In order to establish a false arrest claim, the person detained must prove that the arrest is unlawful and such unlawful arrest resulted in injury. An arrest is unlawful when the police officers in question did not have probable cause to make the arrest[v].

An arresting officer who fails to take the arrested person before a court or magistrate within a reasonable time or without unnecessary delay is guilty of false imprisonment. Similarly, an officer who arrests a person without a warrant is liable for false imprisonment by detaining the prisoner an unreasonable time[vi].

Generally, false arrest is one of several means of committing false imprisonment. False arrest describes the setting for false imprisonment when it is committed by a peace officer or by one who claims the power to make an arrest. Thus, a tort action for false imprisonment based on false arrest against a person who is not a peace officer implies that the detention or restraint to support the tort was done by one who claims the power of arrest[vii].

However, false arrest is almost indistinguishable from false imprisonment[viii]. The only distinction lies in the manner in which they arise. False arrest is merely one means of committing a false imprisonment. Whereas, false imprisonment is committed without any thought of attempting arrest[ix].

The principal element of damages in an action for false imprisonment is the loss of freedom. Sometimes, a court also takes into account the fear and nervousness suffered as a result of the detention[x]. The tort of false imprisonment involves an unlawful restraint on freedom of movement or personal liberty. Therefore, two essential elements to constitute false imprisonment are[xi]:

Detention or restraint against a person's will,  
Unlawfulness of the detention or restraint.

Whereas, after liability is established for false arrest, the person who suffered may recover nominal damages as well as compensation for mental suffering, including fright, shame, and mortification from the indignity and disgrace, consequent upon an illegal detention[xii]. However, in a suit for false arrest and false imprisonment, a

person cannot recover attorney's fees incurred or loss of earnings suffered while defending an underlying criminal action[xiii].

The elements to be considered by the jury in awarding compensatory damages in a false imprisonment case are physical suffering, mental suffering and humiliation, loss of time and interruption of business, reasonable and necessary expenses incurred, and injury to reputation[xiv]. However, it is to be noted that a mere loss of freedom will not constitute false imprisonment[xv].

In a suit for false imprisonment, the damages award may include compensation for loss of earnings while imprisoned, for bodily and mental suffering caused by the imprisonment, and for expenses incurred in securing discharge from restraint including a reasonable attorney fee[xvi].

The measure of damages for false imprisonment is a sum that will fairly and reasonably compensate the injured person for the injuries caused by the wrongful act including any special pecuniary loss which is a direct result of the false imprisonment[xvii]. A jury can award punitive damages in a false arrest or imprisonment case, if the requisite level of malice or other requisite mental state is established.