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ILLINOIS LAW MANUAL

CHAPTER VII INTENTIONAL TORTS & DEFAMATION

B. FALSE IMPRISONMENT

1. Basic Law

The tort of false imprisonment is defined as “an unlawful restraint of an individual's personal liberty or freedom of locomotion.” Toothman v. Hardee’s Food Sys., 304 Ill. App. 3d 521 (5th Dist. 1999). The essential elements of a cause of action for false imprisonment are that:

- (1) The plaintiff was restrained by the defendant; and
- (2) The defendant acted without having reasonable grounds to believe that the plaintiff committed an offense.

Reynolds v. Menard, Inc., 365 Ill. App. 3d 812 (1st Dist. 2006); Toothman v. Hardee's Food Sys., 304 Ill. App. 3d 521 (5th Dist. 1999). The individual must be aware of the confinement (Restatement (Second) of Torts, (§ 35), and mere incidental confinement without intent does not cause false imprisonment. Hanna v. Marshall Field & Co., 279 Ill. App. 3d 784 (1st Dist. 1996).

2. **Analysis**

The confinement must be complete. Prosser, Torts, Section 11 at 47 (5th ed. 1984). A false imprisonment does not occur, for example, when one individual locks a young, athletic person in a room with an open window at a height of four feet from the ground outside. Id.

Further, confinement may be by physical force, physical barrier, or threat of physical force. An unlawful restraint may be effected by words alone, by acts alone, or both. Johnson v. Target Stores, Inc., 341 Ill. App. 3d 56, 79 (1st Dist. 2003); Marcus v. Liebman, 59 Ill. App. 3d 337, 339 (1st Dist. 1978). For example, a psychiatrist who threatens a hospitalized mental patient with court-ordered commitment may create a false imprisonment. Marcus at 341. To constitute a false imprisonment, however, the submission must be to a current threatened and reasonably apprehended force.

Threats for future action are insufficient to support a claim of false imprisonment. Id. Prosser, Torts, Section 11 at 50 (5th ed. 1984).

Unlawful detention following an arrest or inquisition may constitute false imprisonment. For example, the actions of a security guard in wrongfully detaining a customer at a store may constitute false imprisonment.