

Jury Instructions Offered by the Defense

Adams v. Chandler

- Thou shalt not bear false witness against thy neighbor
- Thou shall not steal
- Thou shalt not covet anything that is thy neighbor's

Trial Advocacy

Part of Jury Instructions For
Adams v. Chandler Department Store, Inc.

**ISSUES — CLAIM FOR DAMAGES BASED UPON
MALICIOUS PROSECUTION — BURDEN OF PROOF**

_____ claims damages from _____ for malicious
(Plaintiff) (Defendant)
prosecution and has the burden of proving each of six essential propositions:

First, that he has sustained damages;

Second, that _____ caused [civil] [criminal] proceedings to
(Defendant)
be [initiated] [continued] against _____;
(Plaintiff)

Third, the proceedings were terminated in favor of _____;
(Plaintiff)

Fourth, that _____ did not have probable cause for [initiating]
(Defendant)
[continuing] the proceedings;

Fifth, that _____ acted out of hatred, ill will, or a spirit of
(Defendant)
revenge; and

Sixth, that _____ acts were a proximate cause
(Defendant's)
of _____ damages.
(Plaintiff's)

[If you find from the evidence in this case that each of these propositions has
been proved, then your verdict should be for _____
(Plaintiff)

(against the party or parties who [instituted] [continued] the proceedings); but if, on the
other hand, you find from the evidence that any of these propositions has not been
proved, then your verdict should be for _____.]
(Defendant)

AMI 407

**ISSUES — CLAIM FOR DAMAGES BASED UPON
DEFAMATION — PRIVATE FIGURE**

_____ claims damages from _____ for defamation and
(Plaintiff) (Defendant)
has the burden of proving each of five essential propositions:

First, that he sustained damages;

Second, that _____ published a false statement of fact concerning
(Defendant)

_____;
(Plaintiff)

Third, that the statement of fact was defamatory;

Fourth, that _____ acted [with negligence in failing to (defendant)
(Defendant)

determine the truth of the statement prior to its publication] [or] [with knowledge the
statement was false]; and

Fifth, that the publication of the statement was a proximate cause of
_____ damages.

(Plaintiff's)

[If you find from the evidence in this case that each of these propositions has
been proved, then your verdict should be for _____; but if, on the other
(Plaintiff)

hand, you find from the evidence that any of these propositions has not been proved,
then your verdict should be for _____.]
(Defendant)

NOTE ON USE

Do not use the bracketed paragraph when an affirmative defense, such as
privilege, is in issue.

In an action based on negligence, use AMI 302.

AMI 412

DEFINITION OF PUBLISHED AND PUBLICATION

When I use the terms “published” or “publication,” I am referring to the act of intentionally communicating the statement to someone other than the _____
(Plaintiff)

or under circumstances in which it is foreseeable that the statement will be received by someone other than _____.
(Plaintiff)

This statement may be in writing, oral or conveyed by means of gestures, pictures, or objects.

NOTE ON USE

Use this instruction if either AMI 407, 408, or 409 is given.

COMMENT

Navorro-Monzo v. Hughes, 297 Ark. 444, 763 S.W.2d 635 (1989); Farris v. Tvedten, 274 Ark. 185, 623 S.W.2d 205 (1981).

Not enough to say, something is “reasonable” or “unreasonable”. What are the Facts!!

False Arrest:

In this jurisdiction the Law allows certain latitude or “merchant’s *privilege*” if the merchant has a reasonable belief that a customer has stolen merchandise. The merchant is allowed to detain a customer for a reasonable time, and in a reasonable manner, for the purpose of recovering the stolen merchandise or for summoning the police.

It is the law of this State that a private citizen may lawfully detain another person without a warrant if he/she knows that a crime has actually been committed and that there is reasonable cause to suspect that the person he/she detained did it.

When such a detention without a warrant is made, the citizen must be taken without unnecessary delay before the nearest available judge or other appropriate governmental official, a complaint promptly filed and a warrant issued based on the complaint.

The offense for which it was alleged that the defendant (private citizen) arrested the plaintiff (another person) was a crime for which a citizen's arrest may be made. (Here discuss facts of the detention).

So, in deciding whether plaintiff was falsely detained, there are two decisions you have to make.

The first is whether plaintiff has proven, by the greater weight of the evidence, that defendant intentionally detained or restrained plaintiff in his/her personal liberty or freedom of movement by restraining him/her.

The second decision, assuming you find that defendant did intentionally restrain plaintiff by a detention, involves defendant's claim that he/she had a right to make the detention and that the confinement was only for a reasonable period of time. Here, the defendant must prove this to you by the greater weight of the evidence. So you must decide, one, whether defendant had actual knowledge that the specific crime [insert type of crime] had been committed; two, if so, whether the defendant also had reasonable cause to believe that plaintiff committed that crime; and three, if so, did defendant restrain plaintiff only for a reasonable period of time before bringing plaintiff before a judge or another appropriate governmental official.

Reasonable cause would be that the facts and circumstances known to the defendant were such as would lead a reasonably cautious person to believe that the

