

which he was arrested is irrelevant in determining whether his arrest was made based on probable cause. There is no constitutional guaranty that only the guilty will be arrested. Therefore, the focus of your inquiry is upon the facts and circumstances known at the time of plaintiff's arrest. The existence of probable cause is based on the facts and circumstances that were known to the officer at the time of plaintiff's arrest rather than in hindsight.

15. ASSAULT

You are instructed that under Rhode Island law it is a crime for one individual to assault another individual.

16. "UNDER COLOR" OF LAW – DEFINED

State or local officials act "under color" of the authority of the State when they act within the limits of their lawful authority. In this case, defendants acknowledge that any actions taken toward or in relation to the plaintiff on August 20, 2006, were done in their capacities as police officers, and hence, under color of law.

17. CONSIDER DAMAGES ONLY IF LIABILITY IS PROVEN

I now turn to the question of damages. In doing so, the Court does not intend to indicate that it is of the opinion that the defendants are liable. You are instructed on damages in order that you may reach a sound and proper determination of the amount you will award in the event that you find that the defendants are liable. You need consider the question of damages only if you find that the plaintiff has proven his claim; if you find that the defendants are not liable, you

cannot award damages.

18. COMPENSATORY DAMAGES – EXCESSIVE FORCE

If you find that a defendant is liable to the plaintiff, then you must determine an amount that is fair compensation for all of the plaintiff's damages. These damages are called compensatory damages. In this matter, plaintiff claims physical injuries and pain and suffering. The purpose of compensatory damages is to make the plaintiff whole – that is, to compensate the plaintiff for the damage that the plaintiff has suffered.

You may award compensatory damages only for injuries that the plaintiff proves were proximately caused by the defendant's allegedly wrongful conduct. The damages that you award must be fair compensation for all of the plaintiff's damages, no more and no less. You should not award compensatory damages for speculative injuries, but only for those injuries which the plaintiff has actually suffered. Your assessment of the amount of damages to be awarded, if any, may not be based on the abstract value or importance of the plaintiff's right to be free from an unreasonable seizure.

If you decide to award compensatory damages, you should be guided by dispassionate common sense. Computing damages may be difficult, but you must not let that difficulty lead you to engage in arbitrary guesswork. On the other hand, the law does not require that the plaintiff prove the amount of losses with mathematical certainty, but only with as much definiteness and accuracy as the circumstances permit.

I instruct you to use sound discretion in fixing an award of damages, drawing reasonable inferences where you find them appropriate from the facts and circumstances in evidence.