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Torts (Law: Quick Study)

AMERICA'S #1 LEGAL REFERENCE GUIDE

OPEN

QUICK STUDY

LAW

TORTS

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INTENTIONAL TORTS

PRIMA FACIE CASE

- **ACT**
 - 1. Voluntary
 - 2. Non-negligent physical muscular movement
 - 3. Intent to act where there is a legal duty
- **DEFENSE**
 - 1. Substantial and proximate cause of injury or knowledge with substantial certainty that consequences would result from act
 - 2. Disagreement from Negligence, which requires foreseeable risk, which is a reasonable, probable result that would avoid
 - 3. Knowledge with substantial certainty requires knowledge of more than a possibility of the consequences
- **Includes transferred intent**
 - 1. Example: Person A shoots a gun at Person B, intending to harm Person B, but the bullet hits Person C instead. Person A is liable to Person C
 - 2. Alternative Example: With the same theory, assault, false imprisonment, trespass, invasion of privacy, Person A intends to commit tort with respect to Person B, but accidentally commits tort with respect to Person B. Person A is liable for second tort even though intent was not required to commit first tort
- **CAUSATION**
 - 1. Substantial factor negligence in that causation need not be specifically proven
 - 2. Negligent
 - 3. Generally, greater liability imposed for acts that result in greater damage to plaintiff's rights than for acts in disregard of consequences
- **DAMAGES**
 - 1. Recovery available
 - 2. Generally, greater liability imposed for acts that result in greater damage to plaintiff's rights than for acts in disregard of consequences

TORTS TO PERSONS

1. BATTERY

- 1. Intentional contact judged by reasonable person standard
- 2. Physical invasion of victim's person or something as connected to victim's person that it is customarily regarded as part of person
- 3. No actual injury required
- 4. Taking someone's liberty without consent such as a kidnapping
- 5. May be used as alternative pleading in assault
- 6. Substantial factor
- 7. Negligent
- 8. Violent conduct for mental damage and compensation for resulting mental disturbance
- 9. Positive damages can be awarded even where defendant has defense of mistake of fact

2. ASSAULT

- 1. Threat or apprehension of immediate harmful or offensive contact
- 2. Apprehension ability to cause harm is sufficient
- 3. Mental invasion of victim's power of mind
- 4. Recognition of intent and apprehension
- 5. Threat or apprehension
- 6. The proof of harm required
- 7. Damages available are same as for Battery
- 8. **FALSE IMPRISONMENT**
 - 1. Confinement of confinement is intentional act
 - 2. Reasonable confinement of victim's will
 - 3. Voluntary submission negates imprisonment
 - 4. Awareness of confinement or injury resulting from confinement
 - 5. Not bounded if aware of reasonable means of escape
 - 6. Length of time period immaterial
 - 7. Damages

3. CONSENT

- 1. Voluntary
- 2. Manifested by words or actions
- 3. Example: Patient consents to receive medical treatment
- 4. Manifested by silence and inaction where a reasonable person would speak if the object of intended interference
- 5. Example: No consent where reasonable person would speak if the object of intended interference
- 6. Not valid if induced by fraud
- 7. Must be for informed matter which makes a reasonable rather than confused matter which serves as an informed consent
- 8. Example: Informed matter - Patient consents to treatment, informed matter - Doctor is not licensed to practice medicine

DEFENSES

- 1. Substantive
- 2. Manifested by words or actions
- 3. Example: Patient consents to receive medical treatment
- 4. Manifested by silence and inaction where a reasonable person would speak if the object of intended interference
- 5. Example: No consent where reasonable person would speak if the object of intended interference
- 6. Not valid if induced by fraud
- 7. Must be for informed matter which makes a reasonable rather than confused matter which serves as an informed consent
- 8. Example: Informed matter - Patient consents to treatment, informed matter - Doctor is not licensed to practice medicine

2. Capacity required

- 1. Unconscious or unconscious person is incompetent
- 2. Minors under age of majority

3. SELF-DEFENSE

- 1. Reasonable belief in apprehended necessity
- 2. Reasonable proportionate to the harm deserved
- 3. Defense of self and others
- 4. Available when force reasonably necessary
- 5. Limited to preventing continuation of tort
- 6. Defense of "heat of passion"
- 7. Reasonable belief in apprehended necessity
- 8. Reasonable use of force permissible
- 9. Use of deadly force permissible when personal safety threatened
- 10. Use of force mechanical device is impermissible

4. NECESSITY

- 1. Applies when threatened injury is substantially more serious than that resulting from the tort committed
- 2. Personal safety
- 3. Public interests threatened
- 4. Substantial risk
- 5. Liability for damages
- 6. Reasonable and proportionate
- 7. Defense acts reasonably
- 8. Emergency is great enough to justify action

NEGLIGENCE

PRIMA FACIE CASE

- **DETY**
 - 1. Obligation to prevent method against unreasonable risk of injury
- **BREACH OF DUTY**
 - 1. Failure to prevent negligence
- **CAUSE IN FACT**
 - 1. Close causal connection between action and injury
- **DAMAGES**
 - 1. Actual losses suffered

DEFINITION

- **CONDUCT**
 - 1. Substantial factor when an individual's actions fall within the range of conduct imposed by law which protects others against unreasonable risk of harm
 - 2. Reasonable person should anticipate risk of harm
 - 3. An individual acts unreasonably by not preventing conduct that creates risk of harm
 - 4. Defendant has intentional tort, which is based on desire to cause harm or knowledge with substantial certainty that consequences will follow
- **REASONABLE PERSON**
 - 1. Person whose conduct will occur (i.e. children will play on a slide, but adults - P)
 - 2. Degree of harm resulting from occurrence of event (the child's foot is severed at ankle) - L
 - 3. Reason, such as inconsideration or carelessness, of taking reasonable steps to prevent occurrence of event (a glazing such as handles) - B
 - 4. If B + L, the protection should have been taken

DUTY OF CARE

OBJECTIVE STANDARD

- **REASONABLE, ORDINARY, PRUDENT PERSON**
 - 1. Physical characteristics considered
 - 2. Average mental ability, mental disabilities are considered

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Synopsis

Torts, as every Law student knows, are wrongs. But this chart is so right it's scary. We have always felt a strict liability to maintain the best, most concise, most accurate study guides available. This chart is no exception. It covers just about everything you've ever been tort, er, taught. --This text refers to an out of print or unavailable edition of this title.

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