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Torts (Law: Quick Study)

TORTS	
INTENTIONAL TORTS PRIMA FACIE CASE <ul style="list-style-type: none">• ACT<ol style="list-style-type: none">1. Voluntary2. Failure to act when there is a legal duty• INTENT<ol style="list-style-type: none">1. Deliberate and purposeful state of mind or knowledge with substantial certainty that consequences would result from acta. Distinguished from negligence, which requires a foreseeable risk which a reasonable person would avoidb. Knowledge with substantial certainty requires knowledge of more than a probability of the consequence resulting2. Includes transferred intent<ul style="list-style-type: none">a. 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 for the intentional tort of battery.b. Alternative Example: With that tort (battery, assault, false imprisonment, trespass, trespass to chattels), if Person A intends to commit tort with respect to Person B, but commits a different tort with respect to Person B, Person A is liable for second tort even though intent was that required to commit first tort.• CAUSATION<ol style="list-style-type: none">1. Distinguished from negligence in that causation need not be specifically proven• DAMAGES<ol style="list-style-type: none">1. Notional damages2. Generally, greater liability imposed for acts tending to invade another's rights than for acts in disregard of consequences	<ul style="list-style-type: none">a. Compensation for resulting losses, including physical and mental damages, special and consequential damages, and maybe punitive damages <ul style="list-style-type: none">• INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS<ol style="list-style-type: none">1. Act of extreme and outrageous conducta. Special duty of common carriers and bankers to patrons (including remark emotional responses)b. Known vulnerability (young children, pregnant women, superstitious adults, elderly)c. May include willful, wanton or reckless behavior including deliberate disregard of a known high degree of risk2. Actual damages required<ul style="list-style-type: none">a. Evidence of physical harm or extreme outrageb. Defendant liability only where defendant knows that plaintiff is person
TORTS TO PERSONS BATTERY <ul style="list-style-type: none">1. Harmed an offensive contact judged by reasonable person standarda. Physical invasion of victim's person or something so connected to victim's person that it is customarily regarded as part of person2. No actual injury requireda. Taking indirect threat without consent such as a slap on the buttocks1. May be used as alternative pleading in actual harassment case3. Damages<ul style="list-style-type: none">a. Victim entitled to nominal damages and compensation for resulting mental disturbanceb. Punitive damages can be awarded where defendant has defense of mistake of fact ASSAULT <ol style="list-style-type: none">1. Reasonable apprehension of immediate harmful or offensive contacta. Apparent ability to cause harm is sufficientb. Mental invasion of victim's peace of mind3. Requirement of overt act<ul style="list-style-type: none">a. Words coupled with conductb. No proof of harm required4. Damages inevitably are same as for battery FALSE IMPRISONMENT <ol style="list-style-type: none">1. Act or omission of defendant is bounded areaa. Restraint must be against victim's will2. Voluntary submission negates imprisonmenta. Acquiescence of confinement or injury resulting from confinement3. Not bounded by means of reasonable means of escape4. Length of time period immaterial5. Damages	TORTS TO PROPERTY TRESPASS TO LAND <ul style="list-style-type: none">1. Physical invasion<ul style="list-style-type: none">a. Intention to intrude without authorization and without privilege under lawb. Interference with possession of another's propertyc. Mistake of fact as to ownership of property no defense2. Damages<ul style="list-style-type: none">a. Damages from private nuisance, which requires interference with use and enjoyment of property1. Example: Floodlight projecting onto neighboring property or smoke from barbecue carried by wind onto neighboring property is not physical invasion actionable under trespass but would be interference with use and enjoyment actionable under private nuisance2. Example: Erecting fence at neighboring property existing if it is fixed is physical invasion actionable as trespass3. No proof of actual damage required4. Liability for all consequences5. Mistake of law is no defense TRESPASS TO CHATTEL <ul style="list-style-type: none">1. Act interferes with right of possession2. Physical damages or deprivation of use for substantial period of time CONVERSION <ol style="list-style-type: none">1. Exercising dominion or control warranting full value damages2. Common Law - Defendant who found lost goods converted them to his/her own use rather than returning them3. Mistake of law or fact is no defense4. Modern trend - interference must be sufficiently serious to amount to conversion
DEFENSES CONSENT <ol style="list-style-type: none">1. Voluntary<ul style="list-style-type: none">a. Misinformation by words or actions1. Example: Patient consents to routine medical procedureb. Misinformation by silence and inaction where a reasonable person would speak if she objected or knew special interferencec. Example: No consent where reasonable person would object to high risk experimental medical procedure2. Not valid if induced by fraud<ul style="list-style-type: none">a. Must go to essential matter which makes it harmful rather than collateral matter which serves as an inducement for consent1. Example: Essential matter - Doctor in not licensed to practice medicine	NEGLIGENCE PRIMA FACIE CASE <ul style="list-style-type: none">• DUTY<ol style="list-style-type: none">1. Obligation to protect another against unreasonable risk of injury• BREACH OF DUTY<ol style="list-style-type: none">1. Failure to perform obligation• CAUSATION: PROXIMATE (LEGAL) CAUSE & CAUSE-IN-FACT<ol style="list-style-type: none">1. Close causal connection between action and injury• DAMAGES<ol style="list-style-type: none">1. Actual losses suffered DEFINITION <ul style="list-style-type: none">1. Negligence occurs when an individual's actions fall below standard of conduct imposed by law which grants others against unreasonable risk of harma. Reasonable person should anticipate risk of harmb. An individual acts unreasonably by not guarding against risk of harm which should be apparent2. Distinct from intentional tort, which is based on ability to cause harm or knowledge with substantial certainty that consequences will follow NOTE on DEFENSE <ol style="list-style-type: none">1. Probability that event will occur (i.e. children will play on a railroad track) - P2. Degree of harm resulting from occurrence of event (i.e. child's foot is crushed at wheels) - L3. Burden, such as inconvenience or costs, of taking adequate precautions to prevent occurrence of event (i.e. placing lock on handles) - B4. If B > PL, the precautions should have been taken
	DUTY OF CARE OBJECTIVE STANDARD REASONABLE, ORDINARY, PRUDENT PERSON <ol style="list-style-type: none">1. Physical characteristics considered2. Average mental ability (mental disabilities not considered)



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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