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Torts (Law: Quick Study)

AMERICA'S #1 LEGAL REFERENCE GUIDE

OPEN

QUICK STUDY

LAW

TORTS

OPEN

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 liability
 - 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

RATTERY

- 1. Battery is offensive 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 or battery
- 5. May be used as alternative pleading in assault, battery case
- 6. Damages
- 7. Vicarious liability for mental damage and compensation for resulting mental disturbance
- 8. Positive damages can be awarded even where defendant has defense of mistake of fact

ASSAULT

- 1. Threat or apprehension of immediate harmful or offensive contact
- 2. Apprehension by 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

DEFENSES

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. Reasonable belief in apparent necessity
- 2. Reasonable proportionate to the harm deserved
- 3. Defense of self and others
- 4. Available who have privilege of self-defense
- 5. Limited to use of force reasonably necessary
- 6. Defense of property
- 7. Limited to preventing destruction of property
- 8. Defense of other
- 9. Reasonable belief in apparent necessity
- 10. Reasonable use of force permissible
- 11. Use of deadly force permissible when personal safety threatened
- 12. Use of force mechanical device is impermissible
- **NECESSITY**
 - 1. Applies when threatened injury is substantially more serious than that resulting from the tort committed
 - 2. **PRIVACY**
 - 1. Loss of privacy
 - 2. Private interests threatened
 - 3. Public interests
 - 4. Liability for damage
 - 5. Reasonable expectation
 - 6. Defendant acts reasonably
 - 7. Emergency is great enough to justify action
- **NEGLIGENCE**
- **PRIMA FACIE CASE**
- **DEFENSES**
- **REASONS FOR NEGLIGENCE**
- **CAUSE IN FACT**
 - 1. Close causal connection between action and injury
 - 2. Damages
 - 3. Actual torts suffered
- **DEFINITION**
 - **CONDUCT**
 - 1. Negligent action when an individual's actions fall short of what a reasonable person would do in like circumstances
 - 2. **Common Law** - Defendant who failed to goods concerned to his/her own use rather than those of others
 - 3. **Modern Law** - Defendant must have been negligent in failing to exercise reasonable care
 - 4. Negligent conduct must be sufficiently serious to amount to conduct
 - **REASONS FOR NEGLIGENCE**
 - 1. Plaintiff's own conduct will occur (i.e. children will play on a table themselves) - P
 - 2. Negligent of harm resulting from occurrence of event (the child's feet is served at table) - L
 - 3. Plaintiff, such as incoherence or carelessness, of taking reasonable care to prevent occurrence of event (a placing such on table) - D
 - 4. If P > L, the plaintiff 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



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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