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Torts (Law: Quick Study)

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AMERICAN'S OF LEGAL REVISION GUIDE

Quick Study
LAW

TORTS

INTENTIONAL TORTS

PRIMA FACIE CASE

- 1. **ACT**
 - a. Volitional
 - b. Not accidental physical muscular movement
 - c. Intention to act then is a legal duty

- 2. **INTENT**
 - a. Intent and purposeful state of mind or knowledge with substantial certainty that consequences would result from act

- 3. **REASONABLE**
 - a. Distinguished from Negligence, which requires a reasonable risk which a reasonable person would avoid

- 4. **KNOWLEDGE** with substantial certainty requires knowledge of more than a probability of the consequence resulting

- 5. Includes **transferred intent**
 - 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.

- 6. **ALTERNATIVE** with tort torts: 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 the second tort even though intent was that required to commit first tort

- 7. **CULPABLE**
 - a. Distinguished from negligence in that intention need not be specifically proven
 - b. **RECKLESS**
 - c. **NEGLIGENT**
 - d. **CONSCIOUS**
 - e. Generally, greater liability imposed for acts intending to invade another's rights than for acts in disregard of consequences

TORTS TO PERSONS

- 1. **BATTERY**
 - a. Harmed an offensive contact judged by reasonable person standard

- 2. **PHYSICAL INTRUSION** of victim's person or something so connected to victim's person that it is considered as part of person

- 3. **NO ACT** required

- 4. **TAKING** includes (harmed without actual harm such as a slap on the buttocks)

- 5. **NO ACT** required as alternative pleading in actual harm case

- 6. **RECKLESS**
 - a. Victim entitled to mental distress and compensation for resulting mental disturbance

- 7. **POSITIVE DEFENSES** can be awarded even though defendant has defense of consent

- 8. **ABUSE**
 - a. Reasonable apprehension of immediate harmful or offensive contact
 - b. Apparent ability to cause harm is sufficient
 - c. **MISTAKE** involves victim's prior act of mind
 - d. **REQUIREMENT** of intent act
 - e. Words coupled with conduct
 - f. No proof of harm required

- 9. **DEFENSES** available are same as for Battery

- 10. **FALSE IMPRISONMENT**
 - a. Act or omission of confinement is bounded area
 - b. Restriction must be against victim's will
 - c. Voluntary submission negates imprisonment
 - d. Awareness of confinement as injury negates confinement

- 11. Not bounded if intent of reasonable means of escape

- 12. **LENGTH** of time period immaterial

- 13. **DAMAGES**

- a. Compensation for resulting harms, including physical and mental distress, special and consequential damages, and trouble, pain, and distress

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

- 1. Act of extreme and outrageous conduct

- 2. Special duty of common carriers and innkeepers to patrons (including traveling disabled passengers)

- 3. **KNOWING** includes (young children, pregnant women, impressionable adults, elderly)

- 4. May include willful, wanton or reckless behavior including deliberate disregard of a known high degree of risk

- 5. **ACTUAL DAMAGES** required

- 6. Evidence of physical harm or extreme outrage

- 7. **REASONABLE** liability only where defendant knew that plaintiff in person

TORTS TO PROPERTY

- 1. **TRESPASS TO LAND**
 - a. **Physical intrusion**
 - i. Intention to intrude without authorization and without privilege under law
 - ii. Intention with possession of another's property
 - iii. Mistake of fact as to ownership of property to defend
 - b. Disturb from private relations, which requires interference with use and enjoyment of property
 - c. Example: Floodlight projecting onto neighboring property or smoke from fireplace carried by air onto neighboring property is not physical invasion actionable under trespass but would be interference with use and enjoyment actionable under private nuisance
 - d. Example: Driveway lane of neighboring property causing it to flood is physical invasion actionable as trespass

- 2. **No proof of actual physical injury** required

- 3. **Liability** for all consequences

- 4. **WASTAGE** of use is no defense

- 5. **NO INTERFERENCE** with right of possession

- 6. **Physical damages or deprivation of use for substantial period of time**

- 7. **CONVERSION**
 - a. Unexcused detention or control warranting full value damages

- 8. **Common Law** - Defendant who found tort goods converted them to his/her own use rather than returning them

- 9. **Mistake of law or fact** is no defense

- 10. **Minor tortious interference** must be sufficiently serious to proceed to conversion

DEFENSES

- 1. **CONSENT**
 - a. **Voluntary**
 - i. Manifested by words or actions
 - ii. Example: Patient consents to routine medical procedures
 - b. Manifested by silence and inaction when a reasonable person would speak if she objected to intentional interference

- 2.



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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