

TORTS

“The American Recipe”

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- Seattle, Washington, USA

U.S.A. MAP



TORT DIFFERS FROM CONTRACT

THE LAW OF CONTRACT

PROTECTS INTENTIONS

ENFORCES PROMISES

DUTIES ARISE OUT OF AGREEMENT

THE LAW OF TORT

PROTECTS IMPORTANT PERSONAL INTERESTS

ENFORCES SOCIAL POLICY

DUTIES ARISE OUT OF COMMON LAW

TORT & CONTRACT DO OVERLAP

SO-CALLED "CONTORTS"

TORT DIFFERS FROM CRIMINAL LAW

CRIMINAL LAW

FOCUSES ON THE MIND & ACT OF ACCUSED
FUNCTION IS TO PUNISH & DETER
B OF P = BEYOND REASONABLE DOUBT
PLAINTIFF IS STATE, i.e., GOVERNMENT

TORT LAW

FOCUSES ON INJURY TO PLAINTIFF
FUNCTION IS TO COMPENSATE PLUS
B OF P = PREPONDERANCE OF EVIDENCE (51%)
PLAINTIFF IS THE INJURED PARTY

ORIGIN OF INTENTIONAL TORTS

WRIT OF TRESPASS QUARE CLAUSEM FREGIT
"WHEREFORE HE BROKE THE CLOSE"
= TRESPASS TO LAND

WRIT OF TRESPASS DE BONIS ASPORTATIS
"TAKING & CARRYING AWAY THE GOODS OF ANOTHER"
= TRESPASS TO CHATTELS & CONVERSION

WRIT OF TRESPASS VI ET ARMIS
"BY FORCE AND ARMS"
= ASSAULT, BATTERY, FALSE IMPRISONMENT

COMPETING PERSPECTIVES ON TORT LAW

1. DETERRENCE

Prevent Injury by Threatening Civil Liability

2. ECONOMICS

“Scarcity” E.g., Burden > Probability X Potential Loss

3. CORRECTIVE JUSTICE

Vindicates Individual Rights

4. COMPENSATION

Loss Spreading, Like Insurance

5. CRITICAL RACE THEORY & FEMINISM

More Than White Male Perspective

6. PRAGMATISM

Context

7. SOCIAL JUSTICE

Supplements Regulators & Advances New Causes

MAJOR CLASSIFICATIONS OF TORT LIABILITY

INTENTIONAL TORTS

ASSAULT

BATTERY

FALSE IMPRISONMENT

TRESPASS TO LAND

CONVERSION

TRESPASS TO CHATTELS

(OUTRAGE)

PRIMA FACIE CASE:

ACT, INTENT, CAUSATION, RESULT

MAJOR CLASSIFICATIONS OF TORT LIABILITY (Continued)

NEGLIGENCE – FAILURE TO ACT AS A REASONABLE PERSON UNDER THE CIRCUMSTANCES

PRIMA FACIE CASE:

DUTY TO PLAINTIFF
STANDARD OF CARE
BREACH OF DUTY
CAUSE IN FACT
PROXIMATE CAUSE
INJURY

MAJOR CLASSIFICATIONS OF TORT LIABILITY (Continued)

STRICT LIABILITY - LIABILITY WITHOUT FAULT

WILD ANIMALS

ABNORMALLY DANGEROUS ACTIVITIES

PRODUCTS LIABILITY

DEFECTIVE PRODUCTS UNREASONABLE DANGEROUS
DESIGN, MANUFACTURING, WARNINGS

MAJOR CLASSIFICATIONS OF TORT LIABILITY (Continued)

HYBRID MODERN TORTS

DEFAMATION

INVASION OF PRIVACY

NUISANCE

FRAUD & MISREPRESENTATION

INTERFERENCE WITH CONTRACT