

# TORTS

“The American Recipe”

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# MAJOR CLASSIFICATIONS OF TORT LIABILITY

## INTENTIONAL TORTS

ASSAULT

BATTERY

FALSE IMPRISONMENT

TRESPASS TO LAND

CONVERSION

TRESPASS TO CHATTELS

(OUTRAGE)

PRIMA FACIE CASE:

VOLUNTARY 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

# MEANING OF "INTENT"

1. DEFENDANT DESIRES NECESSARY  
CONSEQUENCES,

OR

2. DEFENDANT IS SUBSTANTIALLY  
CERTAIN THAT HIS ACTS WILL CAUSE  
NECESSARY CONSEQUENCES.

# TRANSFERRED INTENT

## TRANSFER AS BETWEEN INTENDED VICTIMS

E.g., D intends to batter A, but batters B instead.

AND

## TRANSFER AS BETWEEN INTENDED TORTS

E.g., D intends to assault A, but batters A instead.

DOCTRINE ONLY APPLIES TO:

BATTERY

ASSAULT

FALSE IMPRISONMENT

TRESPASS TO CHATTELS

TRESPASS TO LAND

NOT CONVERSION, OUTRAGE, FRAUD OR ANY OTHER TORT

# ROLE OF INSANITY & INFANCY

NEITHER IS A DEFENSE TO  
INTENTIONAL TORTS

THE QUESTION IS WHETHER THE D IS  
CAPABLE OF FORMING THE SIMPLE  
INTENTS NECESSARY FOR LIABILITY



# BATTERY

**DEFINITION: D ACTS WITH THE INTENT TO MAKE CONTACT WITH THE BODY OF ANOTHER AND CAUSES HARMFUL OR OFFENSIVE CONTACT WITH ANOTHER.**

QUESTION: What if you rip plate out of hand of Vic in a rude manner?

QUESTION: Is “harmful or offensive” a subjective or objective test?

QUESTION: What if Vic does not learn of harmful contact until after the fact?

QUESTION: What if Vic is a hemophiliac and your punch kills him because he bleeds to death?

# ASSAULT

**DEFINITION: D ACTS WITH THE INTENT TO PLACE ANOTHER IN APPREHENSION OF BATTERY AND CAUSES ANOTHER TO BE PLACED IN REASONABLE APPREHENSION OF IMMINENT BATTERY.**

FOR VIC'S APPREHENSION TO BE REASONABLE, D MUST HAVE THE APPARENT PRESENT ABILITY TO MAKE CONTACT. BUT THREAT DOES NOT HAVE TO BE REAL. REASON WHY WORDS ALONE ARE RARELY ENOUGH.

VIC MUST BE AWARE OF THREAT WHEN IT'S MADE

# FALSE IMPRISONMENT

**DEFINITION: D ACTS WITH THE INTENT TO CONFINE OR RESTRAIN ANOTHER WITHIN A DEFINED AREA FIXED BY D AND CAUSES THE OTHER TO BE SO CONFINED.**

**CONFINEMENT CAN BE ACCOMPLISHED”**

- 1. PHYSICAL BARRIERS**
- 2. FORCE OR THREAT AGAINST VIC OR FAMILY OR PROPERTY, E.G., DOG OR CAR**
- 3. OMISSION TO ACT WHEN A DUTY**
- 4. IMPROPER EXERCISE OF AUTHORITY**

# TRESPASS TO CHATTELS

**DEFINITION: D ACTS WITH INTENT TO INTERFERE WITH PERSONAL PROPERTY AND CAUSES SIGNIFICANT INTERFERENCE WITH PL'S RIGHT OF POSSESSION.**

**PROOF OF BAD FAITH IS NOT REQUIRED, E.G. D SHOOTS DOG REASONABLY THINKING IT IS WOLF.**

**INTENT ELEMENT IS OFTEN LIABILITY WITHOUT FAULT**

**HARMLESS INTERMEDDLING WITH PERSONAL PROPERTY NOT SUFFICIENT**

**SOME DAMAGE OR SIGNIFICANT DISPOSSESSION IS**

# CONVERSION

**DEFINITION: D ACTS WITH INTENT TO EXERCISE DOMINION AND CONTROL OVER A CHATTEL, WHICH SO SERIOUSLY INTERFERES WITH THE RIGHT OF ANOTHER TO CONTROL IT, THAT THE D MAY BE JUSTLY REQUIRED TO PAY THE OTHER THE FULL MARKET VALUE OF THE CHATTEL AT THE TIME OF THE CONVERSION.**

# CONVERSION Continued

“SERIOUS INTERFERENCE” Restatement of Torts, 2<sup>nd</sup>

1. Extent & Duration of D’s Dominion & Control
2. D’s Intent to Assert a Right Inconsistent w/Pl’s Right of Control
3. D’s Good or Bad Faith
4. Extent & Duration of Resulting Interference
5. Harm Done to the Chattel
6. Inconvenience & Expense Caused to Pl

# TRESPASS TO LAND

DEFINITION: D INTENTIONALLY ENTERS ONTO LAND THAT (WITH OR WITHOUT D'S KNOWLEDGE) BELONGS TO ANOTHER, WITHOUT PERMISSION,

OR

D INTENTIONALLY REMAINS ON LAND THAT (WITH OR WITHOUT D'S KNOWLEDGE) BELONGING TO ANOTHER, WITHOUT PERMISSION, EVEN IF HE ENTERED WITH PERMISSION,

OR

D INTENTIONALLY PLACES AN OBJECT ON LAND THAT (WITH OR WITHOUT D'S KNOWLEDGE) BELONGS TO ANOTHER, WITHOUT PERMISSION.

# **OUTRAGE – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

**DEFINITION: D ACTS IN AN EXTREME AND  
OUTRAGEOUS MANNER WITH THE INTENT OR  
RECKLESSNESS TO CAUSE PL SEVERE EMOTIONAL  
DISTRESS AND CAUSES SUCH DISTRESS**

**“EXTREME & OUTRAGEOUS” – BEYOND ALL POSSIBLE  
BOUNDS OF DECENCY REGARDED AS ATROCIOUS &  
UTTERLY INTolerable in a Civilized Community**

**“INTENT OR RECKLESSNESS” – DESIRE, SUBSTANTIAL  
CERTAINTY OR ACTING IN DELIBERATE DISREGARD OF  
A KNOWN HIGH PROBABILITY THAT SEVERE  
EMOTIONAL DISTRESS WILL RESULT**