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

- 4. 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.

- 5. **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

- 6. **CALCULATED**
 - a. Distinguished from negligence in that intention need not be specifically proven

- 7. **NEGLIGENT**
 - a. Not intentional
 - b. Generally, greater liability imposed for acts intended to invade another's rights than for acts in disregard of consequences

- 8. **TORTS TO PERSONS**
 - a. Battery

- 9. **BATTERY**
 - a. Harmed an offensive contact judged by reasonable person standard
 - b. Physical invasion of victim's person or something so connected to victim's person that it is considered as part of person
 - c. No actual injury required
 - d. Taking indecent liberties without consent such as a slap on the buttocks
 - e. May be used as alternative pleading in actual tort/consent case

- 10. **ASSAULT**
 - a. Victim exposed to mental distress and compensation for resulting mental disturbance
 - b. Positive damages can be awarded even though defendant has defense of consent

- 11. **ABUSE**
 - a. Reasonable apprehension of immediate harmful or offensive contact
 - b. Apprehension of contact more is sufficient
 - c. Mental invasion of victim's peace of mind
 - d. Requirement of overt act
 - e. Words coupled with conduct
 - f. No proof of harm required
 - g. Damages available are same as for Battery

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

- 13. **NOT NECESSARY** if amount of reasonable means of escape

- 14. **LENGTH OF TIME** period immaterial

- 15. **DAMAGES**
 - a. Compensation for resulting losses, including physical and mental distress, special and consequential damages, and trouble, pain, and distress

- 16. **DEFENSES**
 - a. Consent and negligence product
 - b. Special duty of common carriers and bailees to patrons (including traveling common carriers)
 - c. Knowledge, negligence (young children, program errors, inexperienced adults, elderly)
 - d. May include willful, wanton or reckless behavior including deliberate disregard of a known high degree of risk

- 17. **Actual damages required**
 - a. Evidence of physical harm or economic damage
 - b. Defendant liable only where defendant knew that plaintiff in peril

- 18. **TORTS TO PROPERTY**
 - a. Trespass to land

- 19. **Physical invasion**
 - a. Intention to invade without authorization and without privilege under law
 - b. Involuntary with possession of another's property
 - c. Mistake of fact as to ownership of property is defense
 - d. Disturb from private relations, which requires interference with use and enjoyment of property
 - e. 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

- 20. **Example**
 - a. Damages: Damages from neighboring property causing it to flood a physical invasion actionable as trespass
 - b. No proof of actual physical invasion
 - c. Liability for all consequences
 - d. Mistake of law is no defense
 - e. Mistake of fact is no defense
 - f. Mistake of law or fact is no defense
 - g. Mistake of law or fact is no defense
 - h. Mistake of law or fact is no defense
 - i. Mistake of law or fact is no defense
 - j. Mistake of law or fact is no defense
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 - v. Mistake of law or fact is no defense
 - w. Mistake of law or fact is no defense
 - x. Mistake of law or fact is no defense
 - y. Mistake of law or fact is no defense
 - z. Mistake of law or fact is no defense

- 21. **CONVERSION**
 - a. Harrowing dominion or control over another's chattel
 - b. Common Law: Defendant who found tort goods concerned them to his/her own use rather than returning them
 - c. Measure of law or fact is no defense
 - d. Mistake of law or fact is no defense
 - e. Mistake of law or fact is no defense
 - f. Mistake of law or fact is no defense
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 - z. Mistake of law or fact is no defense

- 22. **DEFENSES**
 - a. Consent
 - b. Voluntary
 - c. Manifested by words or actions
 - d. Example: Patient consents to routine medical procedures
 - e. Manifested by object and location when a reasonable person would speak if object affected personal interference
 - f. Example: No consent where reasonable person would object to high risk experimental medical procedure
 - g. Not valid if induced by fraud
 - h. Must give no essential matter which makes it harmful under both ordinary and special which serves as an inducement for consent
 - i. Example: Informed medical: Patient consents to treatment, cultural matter - Doctor is not licensed to practice medicine

- 23. **CAPACITY required**
 - a. Unavailability of intervening person is incompetent, immaterial, or young child

- 24. **SELF-DEFENSE**
 - a. Reasonable belief as to apparent necessity
 - b. Force reasonably proportionate to the harm threatened

- 25. **DEFENSE OF OTHERS**
 - a. Available when victim has privilege of self-defense
 - b. Limited to use of force reasonably necessary

- 26.



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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