

Intentional Torts

Three Elements Act, intent, causation

Intent Purpose of causing consequence or knows consequence is substantially certain

Transferred intent Different tort against same person; same tort against different person; different tort against different person

battery intentional contact with the person of another
unconsented/ unprivileged
harmful or offensive- intent to harm or offend

assault intent to harm/ offend through fear
apprehension of imminent battery

reasonable apprehension or fear results (mere words not sufficient)

false imprisonment words or acts intended to confine within a fixed space
actual confinement
awareness of confinement or harm

trespass to land intent to enter
actual entrance

conversion intent to exercise substantial dominion
exercising dominion

trespass to chattels intent to interfere with chattel
actual interference with use or enjoyment
harm results

Intentional Infliction of Emotional Distress

Defenses to intentional torts

self defense affirmative defense for a real threat
words do not allow self defense

defense of property cannot use excessive force
human life > property

consent look at situation
no need to articulate consent
consent negates intent

necessity apparent necessity

Defenses to intentional torts (cont)

purpose (balancing test)

no other option

Negligence

Duty reasonable standard of care
exception for physical but not mental disability
negligence per se (satisfies duty and breach)

Breach of Duty Assessing foreseeable risks and costs
Assessing reasonable care
risk utility analysis

Evaluating conduct/ custom

Res Ipsa

Actual Damages medical expenses
lost earnings
future earnings
pain and suffering
punitive

Actual cause but-for test
cause contribute to the accident

Proximate cause Scope of the risk
Is the type of injury within the risk
is type of risk foreseeable ?
substantial factor
direct connection
remoteness in time and space
**Intervening persons or forces

Defenses to negligence

Contributory negligence completely bars recovery

Comparative fault Jury determines how negligent

Interest of Public Policy Duty to Protect
Knowledge of Situation and P vulnerability
Creates risk to self

Assumption of the risk express or contractual
implied assumption of the risk
primary assumption of the risk

Special Duty- Landowner

what's their status	trespasser
	invitee
	licensee
conditions v. activities	no need to warn of natural condition
	do need to warn of unexpected conditions
trespassing child	attractive nuisance
	dangerous instrumentality
	open and obvious

Nonfeasance

No duty to act	unless you create harm
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Duty to protect from third party

defendant relationship with plaintiff	special relationship?
duty of landowner/ common carrier	specific harm
	prior similar incidents
	totality of circumstances
	balancing test
Defendant relationship with dangerous third party	special relationship?
	directly and foreseeably exposed
	therapist duty to warn of impending danger

Emotional Harm

Negligent Infliction of Emotional Distress	zone of danger
	direct victim v. bystander
	harm resulting from injury to another

