

11 TORTS OUTLINE

What is a **TORT**? Conduct that amounts to a legal wrong and that causes harm for which the courts will impose civil liability

⇒ Torts are all about money damages

Distinguish a tort from a crime:

- ⇒ Plaintiff in tort: the person who had the wrong done to them
- ⇒ Plaintiff in crime: government (federal, state, local)
- ⇒ Remedies:
 - Tort: recover damages- a person who breaches a tort duty has committed a tort and may be liable to pay damages in a lawsuit brought by a person injured because of that tort.
 - Crime: Jail or fine; the purpose of criminal punishment is primarily to vindicate the state's interest in deterring crime and imposing justice.
- ⇒ The only thing that makes a difference in torts is **the act**. We do not care about the person's mental state (criminal). Its not why you do something, its what did you do? Evidence of intent is **objective**.
- ⇒ Procedural Differences:
 - Tort: more likely than not standard (preponderance of the evidence)
 - Crime: guilt beyond a reasonable doubt

FAULT/LIABILITY: There must be a basis to determine who is and is not going to have to pay damages. The entire tort system is based on fault.

Methods of assigning fault/liability:

- 1) **INTENT**
 - ⇒ example: You punch someone in the nose.
- 2) **NEGLIGENCE**
 - ⇒ Example: You accidentally run your car into another; doctor negligently performs an operation
- 3) **STRICT LIABILITY**
 - ⇒ Example: Setting off TNT in a crowded place

I **INTENTIONAL TORTS**: entail at least an intent on the part of the defendant to engage in conduct that the law regards as wrongful. The intentional tort defendant is consciously aware of his wrongdoing; he is always aware of his act.

INTENT

Without intent there is **no tort** (who did what to whom)

In order for there to be a tort action you first have to see if its voluntary or involuntary

1. **Rule:** All intentional torts include an **voluntary and intentional act**

Intentional:

- 1) **The act is done with substantial certainty that the result will be unlawful**

- a) If it is an unlawful consequence it is a liability act
- b) Substantial certainty = almost sure
- c) Burden of proof is on plaintiff

Black Letter Outline On Torts

Steven Emanuel, William Behr



Black Letter Outline On Torts:

Black Letter Outline on Torts Edward Kionka, Jamie Abrams, Angi Porter, 2025-08-06 Black Letter Outlines are designed to help law students and novice lawyers state clear legal rules describe underlying tort principles and apply those rules and principles to client representations and other real world scenarios Readers can use Black Letter Outlines as a study aid when preparing for classes as a subject matter review when studying for course or bar examinations and as a convenient and easily navigable refresher for the novice lawyer Black Letter Outlines are written by experienced law school professors who are recognized national authorities in their subject area New authors Abrams and Porter bring a niche expertise that combines their years of tort law practice experience with their classroom teaching experience and their added lenses of bar exam readiness instruction and inclusive pedagogy expertise This Torts Outline particularly helps students see the major tort causes of action developments and trajectory shifts in the field and representative practice problems It is a useful tool in helping aspiring Torts mavens at once see the big picture of Torts while also refining their precision in stating its rules and validating their knowledge by measuring content acquisition *Torts* Edward J. Kionka, 2013 Softbound New softbound print book

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The AALS Directory of Law Teachers, 2004 *Tort Law: Challenging Orthodoxy* Stephen G.A. Pitel, Jason W. Neyers, Erika Chamberlain, 2013-10-11 In this book leading scholars from the United Kingdom the United States and Australia challenge established common law rules and suggest new approaches to both old and emerging problems in tort law Some of the chapters consider broad issues such as the importance of flexibility over certainty in tort law connections between tort law and human flourishing and the indirect effects of changes in tort law Other chapters engage more specific topics including the role of vindication in tort law the relationship between criminal law and tort law the use of epidemiological evidence in analysing causation accessory liability in tort law the role of malice in intentional torts and the role of statutes in tort law They propose new approaches to contributory negligence emotional distress loss of a chance damages for nuisance the tort of conspiracy and vicarious liability The chapters in this book were originally presented at the Sixth Biennial Conference on the Law of Obligations at Western University in London Ontario in July 2012 They will be highly useful to lawyers judges and

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