

Chapter 6 – Tort Law

The Basis of Tort Law

- Wrongs and compensation serve as the basis of torts.
- Tort law is designed to compensate those who have suffered a loss or injury to another person's wrongful act.
- The Purpose of Tort Law
 - To provide remedies for the violation of various protected interests.
- Damages Available in Tort Actions
 - **Compensatory damages:** a monetary award equivalent to the actual value of injuries or damage sustained by the aggrieved party.
 - **Punitive damages:** monetary damages that may be awarded to a plaintiff to punish the defendant and deter similar conduct in the future.
- Classifications of Torts
 - Intentional torts
 - Unintentional torts
- Defenses
 - Legally recognized reasons why the plaintiff should not obtain damages

Intentional Torts against Persons

- Intentional tort: requires intent, a wrongful act knowingly committed
- Tortfeasor: one who commits the tort
- **Assault**
 - Any intentional and unexcused threat of immediate harmful or offensive contact
- **Battery**
 - Unexcused, harmful, or offensive physical contact with another that is intentional
- **False Imprisonment**
 - Intentional confinement or restraint of another person's activities without justification
- Intentional Infliction of Emotional Distress
 - An extreme and outrageous act, intentionally committed
- **Defamation**
 - Anything published or publicly spoken that causes injury to another's good name, reputation, or character
 - **Slander** is oral, **Libel** is written.
 - Statements made on the internet may be libel.
 - Statement of fact requirement
 - Publication requirement
 - Damages for libel
 - Damages for slander
 - Defenses against defamation
- **Invasion of Privacy**
 - Person has the right to solitude. Breach of that duty is a tort.
 - Intrusion into an individual's affairs or seclusion
 - False light
 - Public disclosure of private facts

- Appropriation of identity

Intentional Torts against Persons

- **Fraudulent Misrepresentation**
 - Intentional deceit for personal gain
 - Misrepresentation of material facts with knowledge they are false
 - Intent to induce another innocent party to rely on the misrepresentation
 - Justifiable reliance on misrepresentation by deceived party
 - Damages suffered as a result of reliance
 - Causal connection between misrepresentation and injury suffered
- **Wrongful Interference**
 - With a contractual relationship
 - Valid, enforceable contract exists between two parties.
 - Third party knows about contract.
 - Third party intentionally causes either party to breach the original contract.
 - With a business relationship
 - Businesspersons are prohibited from unreasonably interfering with another's business in attempt to gain market share
 - Defenses to wrongful interference

Intentional Torts against Property

- Trespass to Land
- Trespass to Personal Property
- Conversion
- Disparagement of Property
 - Slander of quality (trade libel)
 - Slander of title

Negligence

- **Negligence** is the failure to exercise the standard of care that a reasonable person would exercise in similar circumstances.
- Four Elements of Negligence
 - Duty
 - Breach
 - Causation
 - Damages
- The Duty of Care and Its Breach
 - People in society are free to act as they please so long as their actions do not infringe on the interests of others
 - Reasonable person standard
 - Duty of landowners
 - Duty to warn business invitees of risks
 - Obvious risks are an exception
 - Duty of Professionals

- Causation
 - To hold defendant liable, plaintiff must show the tortious act was both the actual and proximate cause of the injury.
 - **Causation in fact:** “but for” defendant’s act, injury would not have occurred
 - **Proximate cause:** defendant’s act created a foreseeable risk of injury to plaintiff (sufficient strong connection).
- Injury Requirement and Damages
 - Plaintiff must suffer a legally recognizable injury.
 - Plaintiff must show she or he suffered loss or harm to legally protected interest.
 - Not all injuries can be compensated.
- Defenses to Negligence
 - Assumption of risk: Plaintiff may not recover for injuries or damages from risks he or she knows of and has voluntarily assumed
 - Superseding cause: Unforeseeable intervening event may break the connection between wrongful act and injury to another
 - Contributory negligence: Bars the plaintiff from recovering any damages if the damage suffered is partly the plaintiff’s own fault (only used in a few states)
 - Comparative negligence (more common): Reduces the plaintiff’s recovery in proportion to the plaintiff’s degree of fault, rather than barring recovery completely
- Special Negligence Doctrines and Statutes
 - *Res ipsa loquitur*
 - Negligence *per se*
 - “Danger invites rescue” doctrine
 - Good Samaritan statutes
 - Dram shop acts

Strict Liability

- Liability without fault
- Courts apply strict liability based on activities involving extreme risk of injury.
- Abnormally Dangerous Activities
 - The person who is engaged in an abnormally dangerous activity and benefits from it, is responsible for paying for any injuries caused by that activity.
- Other Applications of Strict Liability
 - Wild animals
 - Dangerous domestic animals
 - Product liability for harmful or defective products