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Torts Laminate Reference Chart

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TORTS

INTENTIONAL TORTS

PRIMA FACIE CASE

- **ACT**
 1. Voluntary
 2. Failure to act when there is a legal duty
- **INTENT**
 1. Deliberate and purposeful state of mind or knowledge with substantial certainty that consequences would result from act
 - a. Distinguished from Negligence, which requires a foreseeable risk which a reasonable person would avoid
 2. 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.
 - b. Alternative Example: With five men, (charity, 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 second tort even though intent was that required to commit first tort)
- **CAUSATION**
 1. Distinguished from negligence in that causation need not be specifically proven
 2. Generally, greater liability imposed for acts tending to invade another's rights than for acts in disregard of consequences

TORTS TO LAND

- **TRIFLING INTERFERENCE**
 1. Intention to interfere without authorization and without privilege under law
 2. Interference with possession of another's property
 3. Measure of fault as to ownership of property no defense
 4. Distinct from private nuisance, which requires interference with use and enjoyment of property
 1. Example: Floodlight projecting onto neighboring property or smoke from barbecue carried by an odor neighboring property is not physical invasion actionable under private nuisance but would be interference with use and enjoyment actionable under private nuisance
 2. Example: Directing hose at neighboring property causing it to flood is physical invasion actionable as trespass
- **TRIFLING TO CHATTEL**
 1. Act interferes with right of possession
 2. Physical damages or deprivation of use for substantial period of time
- **CONVERSION**
 1. Exercising dominion or control warranting full value damages
 2. Common Law - Defendant who found lost goods converted them to his/her own use rather than returning them
 3. Measure of law or fact is no defense
 4. Modern trend - interference must be sufficiently serious or integral to conversion

TORTS TO PERSONS

- **BATTERY**
 1. Harmful or offensive contact judged by reasonable person standard
 2. Physical invasion of victim's person as something so connected to victim's person that it is customarily regarded as part of person
 - a. Taking indecent liberties without consent such as a slap on the buttocks
 - 1. May be used as alternative pleading as sexual harassment case
 3. Damages
 - a. Victim entitled to minimal damages and compensation for resulting mental disturbance
 - b. Punitive damages can be awarded except where defendant has defense of mistake of fact
- **ASSAULT**
 1. Reasonable apprehension of immediate harmful or offensive contact
 - a. Apparent ability to cause harm is sufficient
 - b. Mental invasion of victim's peace of mind
 2. Requirement of overt act
 - a. Words coupled with conduct
 - 3. No proof of harm required
 - 4. Damages available are same as for battery
 - **FALSE IMPRISONMENT**
 1. Act or omission of confinement to bounded area
 - a. Restraint must be against victim's will
 - 2. Voluntary submission negates imprisonment confinement
 2. Awareness of confinement or injury resulting from confinement
 - a. Not bounded if aware of reasonable means of escape
 - 3. Length of time period immaterial
 - 4. Damages

TORTS TO PROPERTY

- **TRIFLING TO LAND**
 1. Physical invasion
 - a. Intention to invade without authorization and without privilege under law
 - b. Interference with possession of another's property
 - c. Measure of fault as to ownership of property no defense
 - d. Distinct from private nuisance, which requires interference with use and enjoyment of property
 1. Example: Floodlight projecting onto neighboring property or smoke from barbecue carried by an odor neighboring property is not physical invasion actionable under private nuisance but would be interference with use and enjoyment actionable under private nuisance
 2. Example: Directing hose at neighboring property causing it to flood is physical invasion actionable as trespass
 2. No proof of actual damage required
 3. Liable for all consequences
 4. Measure of law is no defense
- **TRIFLING TO CHATTEL**
 1. Act interferes with right of possession
 2. Physical damages or deprivation of use for substantial period of time
- **CONVERSION**
 1. Exercising dominion or control warranting full value damages
 2. Common Law - Defendant who found lost goods converted them to his/her own use rather than returning them
 3. Measure of law or fact is no defense
 4. Modern trend - interference must be sufficiently serious or integral to conversion

DEFENSES

- **CONSENT**
 1. Voluntary
 - a. Mandated by words or actions
 1. Example: Patient consents to routine medical procedure
 - b. Mandated by silence and inaction where a reasonable person would speak if she objected to intentional interference
 1. Example: No consent where reasonable person would object to high risk experimental medical procedure
 2. Not valid if induced by fraud
 - a. Must go to essential matter which makes it harmful rather than collateral matter which serves as an inducement for consent
 1. Example: Essential matter - Patient consents to surgery, collateral matter - Doctor is not

EMOTIONAL DISTRESS

- 1. Act of extreme and outrageous conduct
 - a. Special duty of common carriers and innkeepers to patrons (including remark, accident, outages)
 - b. Known vulnerability (young children, pregnant women, susceptible adults, elderly)
 - c. May include willful, wanton or reckless behavior (including deliberate disregard of a known high degree of risk)
- 2. Actual damages required
 - a. Evidence of physical harm or extreme outrage
 - b. Negligence liability only where defendant knew or should have known of plaintiff's injury

NEGLIGENCE

PRIMA FACIE CASE

- **DUTY**
 1. Obligation to protect another against unreasonable risk of injury
- **BREACH OF DUTY**
 1. Failure to perform obligation
- **CAUSATION, PROXIMATE (LEGAL) CAUSE & CAUSE IN FACT**
 1. Close causal connection between action and injury
- **DAMAGES**
 1. Actual losses suffered

DEFINITION

- **CONDUCT**
 1. Negligence occurs when an individual's actions fall below standard of conduct imposed by law which protects others against unreasonable risk of harm
 - a. Reasonable person should anticipate risk of harm
 - b. An individual acts unreasonably by not guarding against risk of harm which should be apparent
 2. Distinct from intentional tort, which is based on desire to cause harm or knowledge with substantial certainty that consequences will follow
- **RISK vs. BENEFIT**
 1. Probability that event will occur (i.e. children will play on a trampoline) = P
 2. Degree of harm resulting from occurrence of event (i.e. child's foot is severed at ankle) = L
 3. Benefit, such as convenience or costs, of taking adequate precautions to prevent occurrence of event (i.e. placing lock on trampoline) = B
 4. If B > PL, the precautions should have been taken

DUTY OF CARE

OBJECTIVE STANDARD

- **REASONABLE, ORDINARY, PREUDENT PERSON**
 1. Physical characteristics considered
 2. Average mental ability (mental disabilities not considered)



Customer Reviews

Its okay for a commercial outline but you really need to play the professor, not the subject. If you want another study aif lying around (i.e. for some last minute cramming in the bathroom) buy this. But DO NOT expect this little study chart to get you an A.I gave it five stars because it is good for what it is. It has all the key terms, it is laminated, and it is very sturdy. Once again though, don't expect this to get you an A.For 5 bucks, its worth it. even if you learn one little thing from it, it might help your grade (most law schools grade on a curve).

You can pretty much get a college education with these Quick Study sheets. Just pick your subject and read. These are basically checklists of all the material you are expected to learn throughout the courses. I love these things!

This is very useful for a basic overview of Torts. It is useful to both the beginner or someone with experience who needs to refer back quickly to see required elements of meeting certain criteria.

As a paralegal, these notes come in handy. I like that it's not intense reading. Everything is at a glance. I don't do without them. I have the entire collection

Totally saved me from failing class. This was so helpful that my professor asked for the information to retain copies or as to how the students can obtain a copy.

This Tort Laminated Reference Chart is packed with information and is a pretty good reference chart to refresh your memory on the different causes of action.

Quick and to the point. This helped to clarify some issues I had with first year Torts and is useful for recalling concepts from the past.

Pathetic. I want to to return and they are charging me more for the label than evn the price I bought it for. I am really shocked.

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