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Torts Laminate Reference Chart

TORTS		
INTENTIONAL TORTS		
PRIMA FACIE CASE		
• ACT		
1. Voluntary		
a. Non-accidental physical invasion or movement		
2. Failure to act when there is a legal duty		
• INTENT		
1. Unlawful and purposeful state of mind or knowledge with substantial certainty that consequences would result from act		
a. Reasonable risk which a reasonable person would avoid		
b. Knowledge with substantial certainty requires knowledge of more than a possibility of the consequence resulting		
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 (thugs), assault, false imprisonment, trespass, attempt to defraud, 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		
• DAMAGES		
1. Nominal available		
2. Generally, greater liability imposed for acts tending to invade another's rights than for acts in disregard of consequences		
TORTS TO PERSONS		
• BATTERY		
1. Unlawful or offensive contact judged by reasonable person standard		
a. Physical invasion of victim's person or something so connected to victim's person that A is vicariously regarded as part of person		
2. No actual injury required		
a. Taking inducement without consent such as a slap on the buttocks		
i. 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		
b. No proof of harm required		
c. Damages available are same as for Battery		
• FALSE IMPRISONMENT		
1. Act or omission of confinement to bounded area		
a. Confinement must be against victim's will		
i. Voluntary submission negates imprisonment		
2. Awareness of confinement or injury resulting from confinement		
a. Not bounded if means of responsible means of escape		
3. Length of time period immaterial		
4. Damages		
TORTS TO PROPERTY		
• TRESPASS TO LAND		
1. Physical invasion		
a. Intention to intrude without authorization and without privilege under law		
b. Interference with possession of another's property		
c. Mistake of fact as to ownership of property no defense		
d. Distinct from private nuisance, which requires interference with use and enjoyment of property		
i. 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		
ii. Example: Driveway hole 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. Absolute of law is no defense		
• TRESPASS 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. Mistake of law or fact is no defense		
4. Modern trend - interference must be sufficiently serious or intentional to constitute		
DEFENSES		
• CONSENT		
1. Voluntary		
a. Motivated by words or actions		
i. Example: Patient consents to invasive medical procedure		
b. Motivated by silence and inaction where a reasonable person would speak if she objected to intentional interference		
i. 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		
i. Example: Essential matter - Patient consents to treatment, collateral matter - Doctor is not a cardiologist		
• CAPACITY REQUIRED		
a. Unavailable if offending person is incompetent, intoxicated, or young child		
• SELF-DEFENSE		
1. Reasonable belief as to apparent necessity		
2. Force reasonably proportionate to the harm threatened		
• DEFENSE OF OTHERS		
1. Available where victim has privilege of self-defense		
2. Limited to use of force reasonably necessary		
• DEFENSE OF PROPERTY		
1. Limited to preventing commission of tort		
a. Exception: "Alibi person"		
2. Reasonable belief as to apparent necessity		
3. Reasonable use of force permissible		
a. Use of deadly force unavailable unless personal safety is threatened		
4. Use of deadly mechanical devices is impermissible		
• NECESSITY		
1. Applies when threatened injury is substantially more serious than that resulting from the tort committed		
2. Private necessity		
a. Liable for damages		
b. Private nuisance threatened		
3. Public necessity		
a. No liability for damages		
i. Public interests threatened		
ii. Defendant acts reasonably		
iii. Emergency is great enough to justify action		
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 tricycle) = P		
2. Degree of harm resulting from occurrence of event (i.e. child's foot is severed at ankle) = L		
3. Burden, such as inconvenience or costs, of taking adequate precautions to prevent occurrence of event (i.e. placing lock on tricycle) = B		
4. If B < PL, the precautions should have been taken		
DUTY OF CARE		
OBJECTIVE STANDARD		
• REASONABLE, ORDINARY, PRUDENT 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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