

INTENTIONAL TORTS

BATTERY: P must show 1) a harmful or offensive contact, 2) to P's person, 3) D's intent, and 4) causation.

ASSAULT: P must show 1) an act by the D which causes reasonable apprehension in P, 2) of immediate harmful or offensive contact to P's person, 3) D's intent, and 4) causation.

FALSE IMPRISONMENT: P must show 1) an act or omission by D that confines or restrains P; 2) to a bounded area; 3) D's intent; and 4) causation. NOTE: P must be aware or harmed by confinement.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS: P must show 1) extreme and outrageous conduct by D; 2) intent or recklessness; 3) causation; and 4) damages in the form of severe emotional distress.

BYSTANDER BFD: P must show 1) P present when injury occurred; 2) P is a close relative to V, and 3) D knew P was present and a close relative.

TRESPASS TO LAND: P must show 1) a physical invasion of P's real property; 2) intent; and 3) causation. NOTE: Negligent or reckless entries are only subject to liability if D causes harm to land.

TRESPASS TO CHATTEL: P must show 1) an act by D that interferes with P's right of possession in chattel; 2) intent; 3) causation; and 4) damages.

CONVERSION: P must show 1) an act by D that interferes with P's right of possession of chattel, 2) which is so serious that D must pay for chattel's full value; 3) intent; and 4) causation. NOTE: even a BFP of chattel may be guilty when chattel has been stolen from its true owner.

DEFENSES TO INTENTIONAL TORTS

CONSENT: Req's legal capacity. Express or implied (Apparent - common understanding, custom and usage *or* D's reasonable interpretation of P's objective conduct. Implied by law where necessary to save life).

SELF DEFENSE AND DEFENSE OF OTHERS: invasion is imminent or in progress; reasonable mistake does not negate; may use only proportionate force.

FALSE ARRESTS:

Felony Arrest w/o Warrant – Police → reasonable grounds to believe felony was committed and arrested person committed it; Private → felony was actually committed and private person had reasonable grounds to believe person committed it.

Misdemeanors Arrest w/o Warrant – Police and Private → breach of the peace and committed in presence of arrestee;

Crime Prevention w/o Warrant – Police and Private → if felony or breach of the peace is in progress, or reasonably appears to be. *Deadly force* only allowable if felony and suspect poses serious harm

DEFENSE OF PROPERTY: Must ask to desist; no deadly force allowed.

Re-entry on land: wrongdoer → reasonable time and manner; innocent party → reasonable time and peaceful manner with notice; on land through owner's fault → no privilege.

Re-capture of chattel: force only if in hot pursuit. May only recapture from tortfeasor or third party with knowledge of wrongful taking.

Shopkeepers privilege: shopkeeper may detain for reasonable time and manner if reasonably believes person committed theft in order to conduct an investigation.

Public necessity: protect community as a whole, absolute defense for trespass and damages.

Private Necessity: protect own interest only if emergency is not of his own making, only defense for trespass, e.g. D still liable for actual harm.

DEFAMATION

DEFAMATION: To prove a prima facie case for common law defamation, the P must show:

- 1) defamatory language,
- 2) of or concerning P,
- 3) publication by D to a third person; and
- 4) damages, possibly. If libel or slander per se, then damages are presumed. If any other slander, damages must be proven with some showing of economic harm.

In addition, if this is a matter of public concern (constitutional defamation), P must also prove 1) falsity of the statement; and 2) fault on D's part.

If the P is a **public figure**, she must prove malice (e.g. D knowing of the falsity or acting in reckless disregard), in which case damages are presumed.

If P is a **private figure**, she must only prove negligence, in which case she must prove damages, or demonstrate malice, in which case damages are presumed.

DEFENSES TO DEFAMATION

CONSENT (*supra*). **TRUTH PRIVILEGE:** *Absolute* – spouses (no publication); officer of gov't in course of official duties.

Qualified privilege – public interest in promoting candor. Speaker must have a reasonable belief that info is true *and* speech confined to matter at hand.

INVASION OF RIGHT TO PRIVACY

APPROPRIATION OF P'S PICTURE OR NAME: P must establish an unauthorized use of P's picture or name for D's commercial advantage, unless news worthy publication. Remedies → injunction; damages.

INTRUSION: P must show that D's act of prying or intruding into a private affair, in which P has a reasonable expectation of privacy, would be objectionable to a reasonable person.

FALSE LIGHT: P must show that D attributed to P certain views that he does not hold or actions that he did not take which would be objectionable to a reasonable person under the circumstances. In addition, there must be publication (must be widespread)

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Carolyn Farquhar Ulrich



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