

Intentional Interference with Person or Property-Intent

Intent: Actual intent to cause the harm or Substantial certainty that the harm will occur.

Intentional Contact:

Battery:

1. Intent
2. To make harmful or offensive contact
3. Actually making harmful or offensive contact
4. Without a privilege

Cohen v. Petty (1933) District of Columbia

FACTS: Defendant was driving a car that plaintiff was a passenger in, and ran off the road injuring passengers. Defendant fainted just prior to impact.

ISSUE: Can Petty be held responsible for the injuries sustained by the passengers when his medical condition that caused the accident gave him no way of knowing the accident would happen? (if there wasn't a willful action to crash the car, is he still liable?)

HOLDING: No, Petty isn't liable, because there is no negligence. (no willful action).

REASONING: Without any way to anticipate to illness, Petty was without negligence.

Spano v. Perini Corp (1969) New York

FACTS: Plaintiff-Spano, is the owner of a garage in Brooklyn which was wrecked by a blast caused by Perini Corp. Perini Corp. took all necessary precautions to prevent that from happening, but it still happened.

HOLDING: (In favor of strict liability) Booth v. Rome should be overturned, and Spano should be able to receive compensation for damages.

REASONING: Booth used bad reasoning, the court had always held in previous cases that it does not matter why the damage was caused but that the damage was caused. **STRICT LIABILITY**

Garratt v. Dailey (1955) Washington Supreme Court

FACTS: Defendant-Brian Dailey, is 5 years old, pulls chair out as plaintiff-Ruth Garratt is to sit down. Garratt sustains injury to hip, is awarded \$11,000 in damages.

ISSUE: Does the action alone warrant the damages awarded, or should more investigation into the defendant's intent need to be conducted? Did the trial court properly assess the child's intent?

HOLDING: Remanded to look further review the intent of the child. With

instructions to the trial court to look for substantial certainty that Dailey knew he would cause Garratt to hit the ground upon removing the chair. REASONING: The court believes that in order to award Garratt damages, the court needs to find that Dailey knew with **substantial certainty** that the plaintiff would fall down in the action of the attempt to sit down where the chair was which he moved.

Ranson v. Kitner (1889) Appellate Court of Illinois

Appellant was hunting for wolves, appellee's dog looked like a wolf in Appellants eyes, so appellant mistakenly shot and killed the dog. Regardless of intent, Appellant still owes Appellee the value of the dog as damages (Trespass)

MISTAKE IS NO EXCUSE IN AN INTENTIONAL TORT: as a matter of policy, we compensate the victim whenever the person committing the offence had intent to do the action (even when they made a mistake in doing so). That way they (learn their lesson) will strive to not make that mistake in the future.

McGuire v. Almy (1937) Supreme Judicial Court of Massachusetts

FACTS: Almy-Defendant is mentally unstable, and locked in an institution where she is taken care of by plaintiff-McGuire. Almy strikes McGuire causing injury.

ISSUE: Can defendant-Almy, be held liable for damages even though she is mentally unstable.

HOLDING: Yes, Plaintiff-McGuire did not assume any risk when entering the room. So she can recover damages from Almy.

REASONING: Defendant-Almy had intent to strike McGuire and should be held just as liable as if she was mentally stable. (**Bright Line RULING**)

Fisher v. Carrousel Motor Hotel, Inc. (1967) Supreme Court of Texas

FACTS: Plaintiff-Fisher is a mathematician employed by NASA, and is at a telecommunications conference, PLATE TAKEN FROM CASE.

ISSUE: Can there be a battery when the victim is never actually touched.

HOLDING: The trial court judgment is upheld, and the damages reinstated.

REASONING: A battery can still be committed even when there is no physical touching of the victim. Damages for mental suffering are recoverable without the physical injury, because it is the unpermitted and international invasion of the plaintiff's person and not the actual harm done to the plaintiff's body.

Assault:

1. Intent
2. Placing the plaintiff in fear or apprehension of imminent harmful or offensive contact
3. And the defendant has the present ability to carry out the harm

Western Union Telegraph Co. v. Hill (1933) Court of Appeals of Alabama

FACTS: Sapp is an employee of Western Union who has been drinking on the job, when he harass the wife of J.B. Hill

ISSUE: Did Sapp commit a battery, or merely an assault?

HOLDING: Reversed on the ground that Sapp had not acted within the scope for his employment.

RULE: **TORT Assault is an (1) intentional and (2) Plaintiff is in fear or apprehension of immanent harmful or offensive contact, AND (3) Defendant HAD THE PRESENT ABILITY to carry it out.**

REASONING: Whether or not Sapp could have committed a battery against Mrs. Hill is a question for the Jury since it is clear that Sapp did not act within the scope of his employment.

If he could have reached across the counter and grab her, then it's an assault, if he did not have the ability to reach from behind his counter, then no, it isn't an assault (no present ability to carry it out).

False Imprisonment:

1. Intent
2. Direct restraint of the physical liberty of one person by another Without privilege.

Big Town Nursing Home, Inc. v. Newman (1970) Court of Civil Appeals Texas

FACTS: Newman is a retired printer 67 years of age, his nephew commits Newman to the nursing home. Newman had many health issues including Parkinson's, heart diseases ect. Newman was **not involuntarily committed**. ISSUES: Without a court order was the nursing home in any position to keep the plaintiff-Newman at their facility against his will?

HOLDING: No, trial court ruling affirmed, **Newman is entitled to actual and exemplary damages for false imprisonment.** (the court of appeals did find that the amount the trial court set for recovery to be excessive, and offered plaintiff a remittitur, plaintiff subsequently agreed to the remittitur and the judgment below so reformed was affirmed.)

RULE: False imprisonment is the intentional, direct restraint of one person of the physical liberty of another **without adequate legal privilege.**

REASONING: The nursing home acted in utter disregard of Newman's legal rights, knowing there was no court order for commitment, and that the admission agreement provided that he was not to be kept against his will. Thus, no legal justification for continuing to hold him there.

Hardy v. LaBelle's Distributing Co. (1983) Supreme Court of Montana

FACTS: Hardy is accused by a coworker of stealing a watch. Under false pretenses, Hardy is asked to come in for a tour for new employees; it is really a questioning session, with two police officers present, and a lie detector. Hardy passes the lie detector, and the manager and coworker apologies forthright for their false accusation. Hardy took the matter to trial court, where she was denied

false imprisonment.

ISSUES: Was their DIRECT RESTRAINT of the plaintiff?

(1) Whether the evidence is sufficient to support the verdict and judgment

(2) Whether the District Court erred in the issuance of its instructions.

HOLDING: In favor of defendants, at no point was Hardy imprisoned (not directly restrained).

RULE: Fear of being fired from a job is not a restraint that qualifies for False Imprisonment.

REASONING: Two key elements of false imprisonment are (1) the restraint of an individual against his/her will, and (2) the unlawfulness of such restraint.

Fear of losing a job is NOT enough to render behavior involuntary.

Enright v. Groves (1977) Colorado Court of Appeals

The officer had no right to arrest Mrs. Enright for not producing a license, therefore by arresting her, he was doing so without the authority to do so.

False arrest arises when one is taken into custody by a person who claims but does not have proper legal authority. W. Prosser, Torts § 11 (4th edition).

Intentional Infliction of Emotional Distress (IIED):

1. Intent; reckless
2. Extreme and outrageous conduct
3. Causal connection between conduct and distress
4. Severe emotional distress (Beyond all bounds of decency)--The emotional distress must be **severe (beyond all bounds of decency)** Liability does not extend "to mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities..." It is taken into context of the person who is subjected to the language (i.e. different for a child or woman v. what you can say when talking amongst sailors).

State Rubbish Collectors Ass'n v. Siliznoff (1952) Supreme Court of California

FACTS: Siliznoff collected rubbish from Acme Brewing Co. which State Rubbish claimed was within their area, and wanted Siliznoff to sign on with them so that they could collect on certain notes. Siliznoff was given multiple threats of physical violence against him and his belongings if he did not comply. He went to their meeting where he felt compelled to agree with what they wanted, but never signed anything, because he said he would the following day, and they trusted him to come back because of how scared he was not to do as they said. He was so scared in fact, that he ended up becoming ill.

ISSUES: Was the illness, as a result of physical threats against his life an assault w/o immediate threat?

HOLDING: Yes, you can have an assault w/o immediate threat.

RULES: There can be an assault without immediate threat, and it can lead to emotional distress. **The cause of emotional distress must be intentional.**

IIED without physical conduct, must be extreme and outrageous conduct.

REASONING: By intentionally producing such a fright it endeavored to compel him either to give up the Acme account or pay for it, and it had no right or privilege to adopt such coercive methods in competing for business. Liability is clear because these threats resulted in action on the part of the plaintiff, since he was genuinely scared for what could happen to him, and THAT WAS INTENDNED by the DEFENDANT.

Slocum v. Food Fair Stores of Florida (1958) Supreme Court of Florida
Just being a jerk is not enough.

Taylor v. Vallelunga (1959) Dist. Court of Appeal of California
You can't inflict IIED on someone you don't know is there.

TORTS § 46 "One who, without a privilege to do so, **intentionally** causes severe emotional distress to another is liable.

Trespass to Land:

1. **Intent**
2. **Entering of the land/property of another**
3. **Without privilege**

Dougherty v. Stepp (1835) Supreme Court of North Carolina

FACTS: Stepp without question did come onto Dougherty's property and survey and declare part of it as his own in error, but he did not do any marking of the land. Lower court ruled in favor of dependent, Dougherety appealed.

Entry onto another persons property without permission. It was a mistake, but it doesn't matter he entered the property.

ISSUE: Is a non-harm trespass still a trespass

HOLDING: Yes, it is a trespass, lower court ruling remanded with new jury instructions.

RULES: Trespass to land.

REASONING: from every such entry against the will of the possessor, the law infers some damage; if nothing more, the treading down the grass or herbage or a here, the shrubbery.

Herrin v. Sutherland (1925) Supreme Court of Montana

Intentional action, which leads to an invasion => trespass. As long as you intended to take the step, you have committed a trespass even if you thought you were on your own land the entire time. You intended to shoot the bullet, even if you did not intend for it to be over someone else's land, you shot the bullet, and you have trespassed on that other persons land. **WHY?** To **PROTECT THE QUITE ENJOYMENT OF THE PROPERTY** old tort... property is sacred

Restatement of torts: §160 Failure to remove a thing placed on the land pursuant to a license or other privilege, A trespass, actionable under the rule stated in **§ 158**, may be committed by the continued presence on the land of a structure, chattel or other thing which the actor or his predecessor in legal interest therein has place thereon.

(a) with the consent of the person then in possession of the land, if the actor fails to remove it after the consent has been effectively terminated or

(b) pursuant to a privilege conferred on the actor irrespective of the possessor's consent, if the actor fails to remove it after the privilege has been terminated, by the accomplishment of its purpose or otherwise.

Rogers v. Board of Road Com'rs for Kent County (1947) Supreme Court of MI

You are privileged for that time, and then once the time period elapses, any continuing presence of that item of that property is a trespass. THIS includes privilege to physically enter someone's property as well, the day after the license elapses BOOM then they are trespassing.

Trespass to chattels:

1. Intent
2. Contact with property
3. That damages of use or prevent/deprivation to the use of a chattel

CompuServe Inc. v. Cyber Promotions, Inc. (1997) US Dist. Ct. South Dist. OH

FACTS: CompuServe wants Cyber Promotions to stop spam mailing their customers.

ISSUE: Can CompuServe make a claim for trespass on chattel?

HOLDING: Yes, CompuServe can make a claim for trespass on chattel.

RULES: Second Restatement of Torts § 217(b) states that a trespass to chattel may be committed by intentionally using or intermeddling with the chattel in possession of another, comment e defends physical intermeddling as "bringing about a physical contact with the chattel, the actor may commit a trespass by an act which brings him into an intended physical contact with a chattel in the possession of another.

REASONING: Since CompuServe's servers were worn down with having to hold onto this junk e mail in their data, as well as all of the electricity it takes to run their servers that are now subject to work harder to hold all of this information there is a trespass.

Obviously intent (cyber promotions was actively trying)

Electronic impulses were physical in the opinion of the court.

Harm to and interference to CompuServe's property, because CompuServe's servers had to hold all of this data (deprivation of space on the server) also, interference (harm) with regard to upset customers of CompuServe

Conversion:

More than a trespass, it is where the harm is so great as to cause the COMPLETE DEPREVIATION of the chattel.

Pearson v. Dodd (1969) US Ct. Appeals D.C.

FACTS: Person is a columnist for a Connecticut newspaper, and published Sen. Dodd's misdeeds. Person as well as members of Dodd's staff who made the documents available for copy were sued for Conversion, appealed.

ISSUE: Does the information taken from the files fall under the protection of the law of property enforceable by a suit for conversion?

HOLDING: No it does not.

RULES: CONVERSION: "an intentional exercise of dominion or control over a chattel which so seriously interferes with the right of another to control it that the actor may justly be required to pay the other the full value of the chattel."

THE VALUE is determined by the diminution in its value caused by the interference.

REASONING: None of the documents amounts to literary property to scientific invention or to secret plans formulated by appellee for the conduct of commerce. Nor does it appear to be information held in any way for sale by appellee analogous to the fresh news copy produced by a wire service.

Dodd never knew the files were gone, and never damaged, so there could not have been a conversion.

WHAT ARE THE DIFFERENCES BETWEEN CONVERSION AND ATRESPASS TO CHATTEL?

Trespass to chattel (TTC): Temporary dispossession or harm to chattel. Damages= cost of repair, deprivation of the item, other damages (emotional distress).

Conversion: Total dispossession, or total destruction of chattel (or so utterly useless). Damages = Fair Market Value (FMV) for the item at the time that it was taken (some jurisdictions, it is at the time the person realized that it was gone.) CAN measure emotional attachment, CANT measure emotional distress.

PRIVLIDGES

Consent: expressed or implied permission to have the privilege.

O'Brien v. Cunard S.S. Co. (1891) Supreme Judicial Ct. MASS

Consent Implied

FACTS: Prior to getting off the ship, all passengers including O'Brien must prove that they are properly vaccinated for small pox, with a certificate. There are signs posted all over the ship in various languages so that everyone on board knows about this, as well as why, and where and when it will occur (getting the vaccination if they don't already have it) AND they need it or else they will be detained upon arrival on

the shore.

ISSUE: Did the surgeon have consent to administer the vaccination?

HOLDING: Yes, the surgeon did, and the lower court correctly held in favor of the defendant.

RULES: Consent, Battery.

REASONING: The surgeon was under the impression that the plaintiff wanted to obtain the card showing that she had been vaccinated so that she could get off the boat. Along with all of the other women in line she appeared to want the vaccination. She did not do anything that would have given the surgeon proper notice to not vaccinate her. (Also the judges at the time wrote in practical terms, and thought about how she needed it, or would have ended up in quarantine so it was to be expected on her part).

If she had clearly stated that she did not want it, and insisted on not having it, then it could have been a battery. Instead she remained silent, stayed in line, and left her arm out to be vaccinated.

Hackbart v. Cincinnati Bengals, Inc. (1979) 10th Cir. US Ct. of Appeals

Consent Implied

Trial court should have had case based upon defendant's liability. Hackbart didn't consent to be hit after a play was over and in the way in which the hit was to the back of the head (which you don't consent to just by playing football).

Mohr v. Williams (1905) Supreme Court of Minnesota

Consent Implied

If the patient's life is at stake, then the physician is privileged to do whatever necessary. (But the left ear didn't have a life threatening condition so in this case it was not privileged)

De May v. Roberts (1881) Supreme Court of Michigan

Consent induced by fraud.

Bringing someone in under fraudulent circumstances in a battery if they touch you, even if the touching was in good faith.

Self-Defense: the use of reasonable force under a valid and reasonable ground to defend yourself.

Defense of Others: Acting with the same reasonable force as the person being harmed could use.

Defense of Property: Use of reasonable force, NEVER LETHAL, to defend your property.

Today this (spring gun) is a crime in almost every jurisdiction, and EVERYWHERE it is a tort!

You do not have the right to use lethal force or cause great bodily harm to defend your property! If you have a guard dog, it is ok, but you do need a sign "beware

of dog”BUT, what about these new stand your ground laws?? Stand your ground NEVER applies to defense of property!

Recovery of Property: Use of reasonable force, in FRESH PERSUIT of property taken from you in fraud or theft.

Necessity: Public—For public good, not liable for damages caused. Private—Justifies the action, but still liable for damages.

Public: The city is burning down, so I burn a house next to the fire, to prevent the fire from jumping from building to building. I am not responsible for the damage to the building or anything inside of it, although I must be acting in the capacity of a public official, or with the consent to act on the behalf of a public official.

Private: Storm is coming, so I tie up my boat to your dock so that my boat does not get away and hurt people. I cause damage to your dock. I am not liable for the trespass onto your dock (because it was an emergency) but I am liable for damages that my boat causes to your dock.

Authority of Law: Authority goes as far as the law states.

If I am a police officer, I have the privilege to arrest you if the law states that what you did is something I can arrest you for, if I try and arrest you for littering, I would be false imprisoning you.

Discipline: Reasonableness, and privileged person to administer it. (usually parent, can be teacher)

Justification: Catch all for a reasonable action that isn't always a privilege.

Negligence

Negligence

→Duty

→Breach

→Causation

→Damages

History:

Elements of the Cause of Action:

A Negligence Formula:

DUTY: The standard of care is what a reasonable/prudent person would have done

under the totality of the circumstances.

BREACH: A person breach's a duty when, they fail to act in accordance with the standard of care.

BREACH FORUMLA: The probability of harm and severity of harm are greater than the burden of the precautions. ($P \times S > B = \text{NEGLIGENCE}$).

HARM:

INJURY:

Standard of Care: The "Reasonable Prudent Person":

Standard of Care: The Professional

Standard of Care: Aggravated Negligence

Rules of Law: Rules of law are fact dependent and extremely rare.

Negligence Per Se:

1. Violation of Statue established a duty of care/
2. The defendant broke that statute.
3. The plaintiff is the type of person the statute aimed to protect.

Proof of Negligence: Circumstantial Evidence:

Proof of Negligence: *Res Ipsa Loquitur* : But for negligence the event cold not have happened when and how it did.

(1) Defendant had complete control of the thing that caused the harm.

(2) The event is the type that would not have happened without negligence.

Cause in Fact

Sine Qua Non:

Proof of Causation:

Concurrent Causes:

Problems in Determining Which Party Caused the Harm

Proximate or Legal Cause

Unforeseeable Consequences

Intervening Causes

Public Policy:

Shifting Responsibility:

Joint Tortfeasors

Liability and Joinder of Defendants:
Satisfaction and Release:
Contribution and Indemnity:
Apportionment of Damages:

Duty of Care

Failure to Act:
Pure Economic Loss
Emotional Distress:
Unborn Children:

Owners and Occupiers of Land

Outside the Premises:
On the Premises
Lessor or Lessee:

Overview of Damages

Overview of Wrongful Death

Defenses

Plaintiff's Conduct: Contributory Negligence:
Plaintiff's Conduct: Comparative Negligence:
Plaintiff's Conduct: Assumption of Risk
Statutes of Limitations and Repose:
Immunities: Families
Immunities: Charities
Immunities: Employer Immunity

Vacarious Liability

Respondent Superior:
Independent Contractors:
Joint Enterprise
Bailments
Imputed Contributory Negligence:

Strict Liability

Animals:

Abnormally Dangerous Activities:

Limitations on Strict Liability:

Products Liability

Theories of recovery:

Product Defects: Manufacturing Defect:

Product Defects: Design Defect:

Product Defects: Warnings Defect:

Proof:

Defenses:

Defendants Other than Principal Manufacturers:

Harm Other than Personal Injury:

Legislation and Products Liability: