

College Business Law

TORT LAW UNIT 2



Name_____

Period _____

Due Date_____

The Rights of the people --

-
-
-
-

Tort –

-
-
-

Tortfeasor –

INTENTIONAL TORTS

NICE FAT CD

Nuisance – Interferes with the

Examples of a nuisance:

-
-

Invasion of Privacy

- Allows people to be _____.
 - Cannot use _____ without their permission.
 - _____ must be kept private.
 - Federal Privacy Act of 1974 – protects people from the _____.

Conversion –

- Unauthorized _____ or _____ the _____ of another for the use of the _____.

Emotional Distress –

- _____ or _____ causing _____ or _____ suffering to others.

False Imprisonment –

- Unlawful _____ of a person whether in _____ or otherwise.

Assault & Battery –

- Threat of _____ and unlawful _____.

Trespass –

- Injury to or _____ with another's _____.
- Property consists of:
 -
 -

Contract Interference – Intentionally causing one person not to _____ a contract with another.

Defamation --

- Injuring another's _____ by making _____.
- Defamation can be classified as either
 - **Slander** --
 - **Libel** --

NEGLIGENCE = Accidental Tort

4 Elements of Negligence

-
-
-
-

Proximate Cause –

- Something that produces a _____
- Could the result (_____) have been _____ based on the defendant's actions?

Actual Harm includes:

-
-
-

DEFENSES TO NEGLIGENCE

Eliminate one of the four elements or prove

- _____ negligence
- _____ negligence
- _____ of risk

Contributory Negligence –

- _____ actions _____ to their injuries.
- Not used often because it is _____ to _____ who were only _____.

Comparative Negligence –

- _____ the negligence of the _____ and the _____.
- If the _____ is more than _____ at fault, they will receive no award.
- Used most often today

Assumption of Risk –

- The plaintiff knew the _____ involved and _____ the risk.
 - Examples:
 -
 -
 -

STRICT LIABILITY

- When the _____ is so _____ the party involved is held _____.
 - Examples:
 -
 -
 -
- _____ of _____ are also held to strict liability.
 - Examples:
 -
 -

SURVIVAL AND WRONGFUL DEATH STATUTES

- Allows a _____ to be brought even though the rightful _____ and _____ are _____.
- The lawful _____ of the _____ of the _____ handles the suit.
- _____ -- bring a suit if _____ or _____ caused the death.
- Can only be brought by _____, _____ or _____.

REMEDIES FOR TORTS

-
- Injunction – a _____ issued by a _____ ordering a person to _____ or _____ something.

TORTS

Part 1: Fill in the Blank: Into each sentence below, copy a term from the word bank that correctly completes the sentence.

| | | | | |
|----------------|------------|------------------|-----------------|------------|
| Breach of duty | Injunction | Strict Liability | Nuisance | Tort |
| Trespass | Negligence | Intentional Tort | Proximate Cause | Defamation |

1. Interference with another's enjoyment of life or property. _____
2. Wrongful act of injuring another's reputation with false statements. _____
3. Failure to exercise the degree of care that a reasonable person would exercise. _____
4. Court order by a judge ordering a person to do or not do something. _____
5. Responsibility to answer for harm that results for hazardous activities. _____
6. Wrong that occurs when a person knows and desires the consequence of his or her act. _____
7. One person's interference with the rights of another. _____
8. Wrongful injury or interference with the property of another. _____
9. One person's failure to exercise the degree of care a reasonable would exercise in the same situation. _____
10. The link between the unreasonable conduct and an injury in a negligence suit. _____

Part 2: True or False: For each statement, circle True or False.

- | | | |
|------|-------|--|
| True | False | 1. One of the primary purposes of the law is to protect you from the wrongful acts of others. |
| True | False | 2. A tort is a wrong against an individual. |
| True | False | 3. Tort lawsuits are brought by the state in order to punish wrongdoers |
| True | False | 4. Sometimes a wrong can be both a tort and a crime. |
| True | False | 5. An assault and battery are always committed together. |
| True | False | 6. Property owners today own the airspace to the highest point in the sky. |
| True | False | 7. It is not considered a wrongful act to interfere with another person's contracts. |
| True | False | 8. Under the law, all people are entitled to certain rights. |
| True | False | 9. Public officials can win a lawsuit for libel or slander even if actual malice cannot be proved. |
| True | False | 10. A person does not need to suffer injuries or damages to property to be able to recover from another person for that person's negligence. |
| True | False | 11. A public nuisance is one that affects a large group of people. |
| True | False | 12. If there is a defect in a product that causes an injury, the company that manufacturers the product is often liable. |
| True | False | 13. Today, when the victim of a tort dies, the chance for a lawsuit also dies. |
| True | False | 14. Money will always repay the injured party for the damages suffered in a tort injury. |
| True | False | 15. Individuals have the right to know what records concerning them are being kept by government agencies. |

Part 3: You're The Judge

Mike pointed a gun at Cassie and said to her, "I hate you and I'm going to shoot you!" Cassie left. Mike claims that he did not commit a tort because he did not shoot Cassie. **Is he correct?**

_____ Yes, there was no injury so there is no tort.

_____ Yes, it was only words. You cannot sue someone over what they say to you.

_____ No, he committed the tort of assault by threatening her.

_____ No, he committed the tort of battery by threatening her.

Wendy discovered a car parked on the side of the road with the keys left in it. Seeing not one around, she got in the car, started it up, and drove it away. She abandoned the car about two hours later when it ran out of gas. **Did she commit a tort?**

_____ Yes, unauthorized taking of someone else's property is conversion.

_____ Yes, unauthorized taking of someone else's property is larceny.

_____ No, there was not tort because the owner will get the car returned.

_____ No, it is not a tort, only a crime which the police would have to arrest her for.

Eddie entered a vacant house without the permission of the owner. The house was owned by Louis. Eddie was caught by Louis who claimed he had the right to bring a lawsuit against Eddie for trespass. Eddie argues there was no trespass, because there was no injury to Louis's property. **Is Eddie correct?**

_____ Yes, if there is no injury, there is no lawsuit.

_____ Yes, this is not a civil matter. The police would have to get involved and arrest Eddie.

_____ No, Eddie was trespassing as soon he stepped on Louis's property.

_____ No, Eddie was trespassing. Injury does not have to occur to the property simply being an unwelcome person on someone else's property constitutes trespass.

Peter negligently drove his speed boat into a group of swimmers. The swimmers, however, were in a place that they were not supposed to be. The jury found that Peter was negligent and assessed the damages at \$50,000. However, they also found the swimmers were 20% negligent in contributing to their own injuries. **Under comparative negligence guidelines, do the swimmers recover any of the damages award by the court?**

If yes, how much will the swimmers receive? _____

James wanted to remove some tree stumps on his property. He was very careful in setting the explosive charges. Nevertheless, some of the debris from the explosion damaged Frank's car. **Will James have to reimburse Frank? Why or why not?**

_____ Yes, James has to assume the risk of any injury caused.

_____ Yes, James is strictly liable because he was doing something that was very dangerous

_____ No, James is not responsible if Frank's car was near his property.

_____ No, James is not responsible since he was very careful with the explosives.

Part 4: Identify the Parties – Read the descriptions of each of the following cases. Each involves an injury. Assume that a civil suit is brought by the injured person. For each case, (A) identify the plaintiff and defendant(s) and (B) determine whether the defendant should pay for the plaintiff's damages. Be prepared to explain your answers.

1. Nineteen-year-old Carrie is babysitting for her four-year-old niece Jill. Carrie leaves Jill alone in the living room and goes into the kitchen for some privacy to call her boyfriend. From the kitchen she can hear but not see Jill. While Carrie is out of the living room, Jill falls off a chair and is hurt.

A. Plaintiff:

Defendant:

B. Should the defendant pay for plaintiff's damages? Why?

2. Ben, a defensive tackle on the college football team, tackles a teammate in a full-contact practice. When the teammate hits the ground, his shoulder is dislocated.

A. Plaintiff:

Defendant:

B. Should the defendant pay for plaintiff's damages? Why?

3. Mr. Ghosh owns a large apartment building. When his janitors wax the lobby floor, they place a 12-inch square sign near the front door that reads: "Caution. Wet floors." Mrs. Gonzalez is hurrying home from shopping with two large bags of groceries. She doesn't see the sign and slips and falls on the freshly waxed floor, injuring her knee and arm.

A. Plaintiff:

Defendant:

B. Should the defendant pay for plaintiff's damages? Why?

4. Corina leaves a sharp knife on the kitchen table after making a sandwich. A three-year-old neighbor who has been invited over to play with Corina's daughter climbs up onto a chair, grabs the knife, and seriously cuts his finger.

A. Plaintiff:

Defendant:

B. Should the defendant pay for plaintiff's damages? Why?

5. Jamal, a school bus driver, has a heart attack one morning while driving, the bus carrying students to school. As Jamal loses consciousness, the bus slams into a wall, injuring several of the students. One month earlier during routine checkup, Jamal's doctor had warned him of his heart condition.

A. Plaintiff:

Defendant:

B. Should the defendant pay for plaintiff's damages? Why?

6. Matt and Emily are sitting in the upper deck of the stadium behind first base at a major league baseball game. A foul ball hit by their team's star player bounces off a nearby railing, smacking Matt in the head and giving him a concussion.

A. Plaintiff:

Defendant:

B. Should the defendant pay for plaintiff's damages? Why?

7. Jess, an expert auto mechanic, continues to drive her car, even though she knows that the brake linings are badly worn. Driving below the speed limit on a rain-slick road at night, she slams on the breaks and skids into a bicyclist who is riding one foot away from the right curb.

A. Plaintiff:

Defendant:

B. Should the defendant pay for plaintiff's damages? Why?

Part 5: The Case of

The Spilled Coffee

In 1994, 79-year-old Stella Liebeck bought a cup of coffee from the drive-through window at a fast food restaurant. While the car in which she was a passenger was stopped to allow her to put cream and sugar in her coffee, she balanced the cup between her knees and attempted to remove the lid. The coffee spilled, causing third-degree burns to over six percent of Liebeck's body and causing her to spend eight days in the hospital and undergo skin graft operations. Liebeck sued the restaurant for damages.

The restaurant was part of a large national chain that served its coffee at approximately 180°F, despite the fact that coffee at such a high temperature is too hot to drink. At the trial, the chain's quality control manager testified that the sale of any food over 140°F would create a burn hazard.

The restaurant argued that, according to its surveys, many of its customers take coffee back home or to work with them and consume it there, so the higher temperature is necessary to assure that it will still be hot when consumed. They also claimed that many customers choose this particular chain specifically because they do serve their coffee so hot. However, the chain was also aware that, between 1982 and 1992, approximately 700 claims had been filed by people burned by their coffee.

The jury awarded Liebeck \$160,000 in compensatory damages (finding her 20 percent at fault for her own negligence) and \$2.7 million in punitive damages (the equivalent of two days of the chain's coffee sales). The trial judge reduced the amount of punitive damages to \$480,000, and the parties eventually come to a secret settlement agreement for an undisclosed amount.

The case launched a public debate about the appropriateness of lawsuits with high damage awards in situations such as this one.

1. Who is the plaintiff?
2. Who is the defendant?
3. What, if anything, did the defendant do wrong?
4. What, if anything did the plaintiff do wrong?
5. Did the defendant cause the plaintiff harm on purpose?
6. Did the defendant's conduct in some way cause the harm suffered by the plaintiff?
7. What duty of care, if any, did the defendant have toward its customers?
8. Do you agree or disagree with the outcome of the trial?
9. What are the arguments for the award of punitive damages?
10. What are the arguments against the award of punitive damages in a case like this one?

Part 6:

TORTS TROUBLES

CHECKLIST

State the duty.

Look for the breach.

Ask: did defendant's conduct cause the plaintiff's harm?

So, what damages does defendant owe the plaintiff?

McDonald's: The Case of the Spilled Coffee

| | |
|---|--|
| State the duty | Serve coffee at a temperature that isn't too hot |
| Look for the breach | They served coffee that was WAY too hot—it was 180°! |
| Did defendant's conduct cause the plaintiff's harm? | Yes. By selling Stella the hot coffee that could cause second degree burns. |
| What damages does defendant owe the plaintiff? | Money to cover her hospital bills, her legal fees and for her pain and suffering. |

Kayla: The Case of the Drunk Driver

Kayla is bartending at The Right Round, a nearby pub, because her new song isn't selling very well. She sees Carlo, a regular customer at The Right Round, is clearly intoxicated. He asks her for one more round of drinks before he leaves. Not wanting to offend him, Kayla serves him, saying, "Let's make this the last round." Twenty minutes later, Carlo leaves the bar to go home. Just after Carlo pulls his car onto the highway, he swerves and hits another car head-on. Carlo and the driver of the other car are seriously injured.

| | |
|---|--|
| State the duty | |
| Look for the breach | |
| Did defendant's conduct cause the plaintiff's harm? | |
| What damages does defendant owe the plaintiff? | |

What do you think? Is Kayla responsible for the accident? Should Carlo be able to sue her and collect damages? Should the other driver?

Rob & Katrina: The AIDS Case

Rob has an STD. He is new to Seattle and does not want anyone to know about his illness. He meets Katrina and they start dating. They really like each other and eventually become exclusive. They have unprotected sex, but Rob does not tell Katrina beforehand about his STD. Katrina finds out later that she has the same STD Rob does after she goes to a doctor for a blood test.

| | |
|---|--|
| State the duty | |
| Look for the breach | |
| Did defendant's conduct cause the plaintiff's harm? | |
| What damages does defendant owe the plaintiff? | |

What do you think? Does Rob have a duty to tell Katrina about his condition? If he does, did he breach it, and should Katrina be able to recover damages from Rob? Would your answers change if Rob was HIV positive (being that there is no cure for AIDS)?

Milton Bradley: The Case of the Baseball Swing

Milton Bradley is trying to give the Mariners a chance at a pennant win. To stay in shape, he practices his swing in the off-season. In fact, he likes to practice so much that he often practices in the game room so he can practice while he watches Sports Center highlights. One day, while practicing his swing in his game room, he loses his grip on the bat. The bat flies into the dining room and hits Ichiro's wife's friend in the head, causing minor injuries.

| | |
|---|--|
| State the duty | |
| Look for the breach | |
| Did defendant's conduct cause the plaintiff's harm? | |
| What damages does defendant owe the plaintiff? | |

What do you think? Sometimes the amount of damages can change. Let's say the bat hit Ichiro's wife's best friend in the arm. Does that change the amount of damages? What if his wife's best friend was a concert violinist and can't play her violin anymore? Does that change the amount of damages?

Part 7: You Be The Judge

Analyze each case below. Identify the plaintiff and defendant and decide whether the defendant has a legal defense. Assume the state has a comparative negligence law.

- A. Liv and her friends go to an amusement park, and she decides to ride the scariest roller coaster. After each rider is seated, the attendant secures that rider with a safety bar. Live tells her friends that she does not need the safety bar. After the first large hill, she detaches it. Later in the ride, Liv is thrown from the roller coaster and severely injured.

Plaintiff -

Defendant –

Defense(s)

- B. A large sign posted at the foot of the lifeguard station warns of a very dangerous undertow beyond the first sandbar. There are buoys floating around the sandbar. Howard swims out beyond the sandbar and drowns before the lifeguard is able to reach him.

Plaintiff -

Defendant(s) -

Defense(s) -

- C. At the beginning of the semester, the chemistry teacher distributed instructions explaining how to use the Bunsen burner safely – including which liquids are flammable and a reminder to keep them away from the burners. She does not, however, discuss these instructions with the students. During a lab experiment in the middle of the semester, one student spills a flammable liquid on a lit burner and is badly burned.

Plaintiff -

Defendant(s) -

Defense(s) -

- D. It is a snowy, icy day. Eric is walking home from school when he spots some friends walking the next block over. Eric begins to run towards them, taking a shortcut through the courtyard of an office building. He suddenly slips and falls hard on the ice-covered courtyard, breaking his shoulder.

Plaintiff -

Defendant(s) -

Defense(s) –

- E. Amy just got her driver's license and is on her way to meet some friends at the mall. She forgets to use her left turn signal before switching lanes. At the same time, a drunk driver on the opposite side of the road swerves into Amy's lane. Fortunately, Amy and the drunk driver suffer only minor injuries, but both cars are completely totaled.

Plaintiff -

Defendant(s) -

Defense(s) –


- F. While shopping with his mother in a local sports equipment store, Jake, age 9, steps onto a treadmill that is on display. He touches the on/off switch, unaware that it is plugged in. Jake is immediately thrown from the treadmill, sustaining injuries.

Plaintiff -

Defendant(s) -

Defense(s) -

B I N G O

| | | | | |
|--|--|---|--|--|
| | | | | |
| | | | | |
| | | <div>FREE  SPACE</div> | | |
| | | | | |
| | | | | |