

Intentional Torts

Torts are defined as civil wrongs against individuals for which the courts will award money damages. Intentional torts are civil wrongs resulting from deliberate actions.

Elements of Intentional Torts

All intentional torts have at least three elements.

1. It must be an act of conscious volition
2. The tortfeasor (the person who committed the tort) must have understood the consequences of his or her actions. This is known as intent.
3. The tortfeasor's actions must have resulted in in some sort of physical or bodily injuries to someone else, allowing that person (the plaintiff in a lawsuit) to sue for damages.
- *4. Some torts also require a fourth element – actual damages, meaning that the plaintiffs must produce a receipt showing their damages.

Types of Intentional Torts

Intentional torts fall into two categories – torts against people and torts against property.

Torts against People

- **Assault**
- **Battery**
- **Emotional Distress**
- **False Imprisonment**

Torts against Property

- **Trespass to Land**
- **Trespass to Personal Property**
- **Conversion**

Assault

Assault is defined as the fear of unwanted bodily contact.

- The fear must be reasonable, meaning that the situation would cause a reasonable person to be afraid.
- Usually words alone, ie. “I am going to hit you” are not an assault. Words accompanied by a gesture, such as shaking a fist or pointing a gun, constitutes an assault.
- Note that assault does not mean you were actually touched, rather it is the fear that you will be touched.

Battery

Battery is the actual unpermitted touching that is either harmful or offensive.

Examples include hitting someone, pulling someone's hair, pulling on someone's clothing, spitting on someone, or shooting someone with a gun. As long as there is unwanted contact or touching it is battery.

Assault & Battery

If you see someone pointing a gun at you *the fear* that you will be shot is assault. Actually being shot is battery.

You can experience assault without battery. For example, if someone points a gun at you but does not shoot.

Or, you can experience battery without assault. For example, if someone attacks you from behind. Since you did not see them coming you did not experience any fear of contact, but the unwanted contact itself is battery.

Emotional Distress

Intentionally causing someone to suffer extreme emotional distress by engaging in extremely cruel, outrageous conduct constitutes the tort of intentional infliction of emotional distress.

In order for this tort to arise the defendant must commit and act that is outrageous and extremely cruel. For example, telling someone his mother has died when she is actually alive and well. Merely saying unkind words that hurt someone's feelings does not constitute emotional distress.

*This tort has the fourth element of actual damages. This means that in order to win the lawsuit the plaintiff must show receipt for damages. These may take the form of a psychiatrist's bill or medication needed as a result of the distress.

False Imprisonment

This is defined as interfering, without just cause, with a person's right to freely move about.

The restriction can be physical or psychological in nature. For example, tying a person to chair without justification and threatening a person with violence if he leaves a room both constitute false imprisonment, even though the person is not physically restrained in the second scenario.

Restraining someone with justification, such as holding someone suspected of shoplifting for questioning, is permissible as long as there is probable cause or wrongdoing and the restraint was done in a reasonable time and manner. A jury decides what is reasonable.

Torts against Property

Property is divided into two types: Real Property and Personal Property

Real Property

Real property is land and all things attached to the land. Things attached to the land are known as fixtures.

Torts against real property are called trespass to land

Personal Property

All other property

Torts against personal property are called trespass to personal property and conversion.

Trespass to Land

This tort involves an intentional physical act that results in an unjustified intrusion onto another's land without the owner's consent.

The act of trespass to land does *not* mean that you intend to trespass – it means that you intend to put your foot down. You can be on someone's property by mistake and still be liable for this tort because you meant to put your foot down, or in other words, because you were intentionally walking.

Ex. If you are lost in the woods and end up on someone's land without realizing it, you have trespassed because you are walking intentionally.

Ex. However, if you were thrown out of a car and landed on someone's property you are not trespassing, because you did not intend to put your foot down.

Trespass to Personal Property

This tort involves injury or harm to someone's personal property.

Personal property includes items such as cell phones, clothing, cars, pets, and any other property other than land.

Ex. If you borrow someone's car and you damage it you can be sued for trespass to personal property.

Conversion

Conversion is damage to personal property so severe that the plaintiff is entitled to the full value of the goods.

The tort of conversion consists of permanently depriving the owner of personal property of its use and enjoyment through theft or destruction.

Ex. If you borrow someone's car and total it the owner is permanently deprived of the use of his personal property. This is an example of conversion.