

A tort is a civil wrong.

Torts are divided into two big classes: intentional and negligent. (Also note "strict liability")

Most - but not all - intentional torts involve behavior that is also a crime.

The same action may be both a crime and a tort. (Remember the rule: "either, neither, or both.")

Each intentional tort has different essential elements (just like a crime does).

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There are LOTS of intentional torts. And they each have their own essential elements.

- | | |
|---------------------------------------------------------|----------------------------------------------|
| Assault | Defamation (Libel & Slander) |
| Battery | Criminal Conversation |
| False Imprisonment | Alienation of Affection |
| Conversion | Abuse of Process |
| Trespass to Real Property | Malicious Prosecution |
| Trespass to Personal Property (aka Trespass to Chattel) | Wrongful Discharge |
| Fraud | Destruction of property |
| Unfair or deceptive trade practices | Intentional Infliction of Emotional Distress |

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We've talked about one of them twice now.

CONVERSION

The assumption and exercise of the right of ownership over plaintiff's property by the defendant without the plaintiff's permission to the exclusion of the plaintiff's own rightful ownership interest.



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Traditional negligence analysis

Did defendant have a duty of reasonable care to the plaintiff?

Did defendant breach that duty (i.e., was defendant negligent)?

Was defendant's negligence the proximate cause of injury to plaintiff or plaintiff's property?

What damages did plaintiff suffer?



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What would a reasonably prudent person, acting with due care and diligence, do under the same circumstances?

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Most common defense

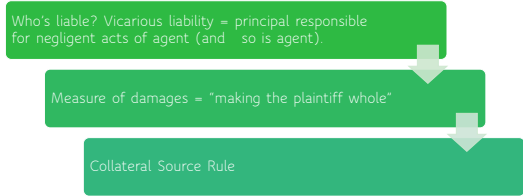
Contributory negligence





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Three last things to remember:



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Vicarious liability, aka “When I die, I hope it’s because I got hit by a Walmart truck.”



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Collateral Source Rule, aka “My church didn’t hold a fundraiser for YOU!”



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