

Exercise: Write it Down!

How many intentional torts can you think of? (If you don't know the legal terms, just describe the behavior or list the equivalent crime, if there is one.)

Exercise: Write it Down!

Assault Battery

False Imprisonment

Trespass to Real Property

Trespass to Personal Property (aka Trespass to Chattel)

Fraud

Unfair or deceptive trade practices

Defamation (Libel & Slander)

Alienation of Affection

Abuse of Process

Malicious Prosecution Wrongful Discharge

Destruction of property

Intentional Infliction of Emotional Distress

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Let's Zoom In on Two

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.

UNFAIR OR DECEPTIVE TRADE PRACTICES

A practice is unfair when it offends established public policy as well as when the practice is immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumers' Marshall v. Miller, 302 N.C. 539, 548, 276 5.E.2.d 397, 403 (1981). Also, "(1a) party is guilty of an unfair act or practice when it engages in conduct (that) amounts to an inequitable assertion of its power or position."



For your consideration . . . DONA READS THE FACTS . .

Plaintiff sevidence tended to show the following. Plaintiff was the owner of a 1995 Ford F150 pick-up truck that the had purchased through a loan from defendant, using the truck as collateral. In the summer of 2002, plaintiff missed two consecutive payments on the loan, and defendant made repossession arrangements with Caroline Repossessions. A approximately 400 am. on 29 July 2002, employees of Caroline and Caroline Repossession arrangements with Caroline Repossessions. The programment of 2002, plaintiff missed two consecutive payments on the loan, and defendant made repossession from the member of the programment of the programment of the programment of the programment of the member of the programment of the programment of the programment of the member of the programment of the p

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Small group assignments

Assume that plaintiff sues both Carolina Repossessions & Mid-East for both torts.

Groups 1 & 3: Discuss liability of each defendant for conversion. What information, if any, is Groups 1 & 3. Discoss beauty of each operation to convenion. When information, it any, is missing? If you're not absolutely certain of your decision, identify specifically the "soft spots" - what's concerning you or making you unsure? Remember that you should separately analyze (1) whether this evidence makes out a prima facie case, and (2) whether the facts raise a potential

Groups 2 & 4: Same assignment, but for UTP.

Group 5: Focus on the evidence in this case. Which parts of the testimony are relevant - and particularly significant? Which parts are irrelevant? Is there evidence that might be "more prejudicial than probative" the judge should look out for?

Unfair or deceptive practice

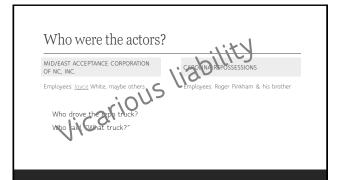
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The trial court found and evidence supports that (1) two men appeared at the female plaintiff's house at 4:05 a.m. with a tow truck and hauled away her truck without giving plaintiff a reasonable time to unload her 130 watermelons; (2) following the repossession, when plaintiff contacted defendant or languire as to the location of her truck os she could retrieve her watermelons, defendant denied knowledge of the truck; (3) defendant was unresponsive to plaintiff's inquiries about her watermelons, left of the plaintiff access to the truck—by requesting her truck key—offer the watermelons were already rotting and of no value; and (5) defendant has never compensate, plaintiff for the converted property. These unchallenged findings of fact, taken together, are such as "a reasonable mind might accept as adequate" to support the finding that the defendant deprived plaintiff of her property by means of inequitably asserting its relative position of power.

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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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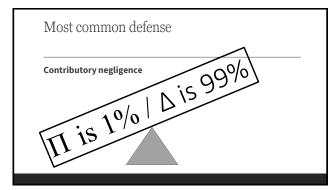
Substitutes for negligence requirement:

Negligence Per Se Violation of safety statute

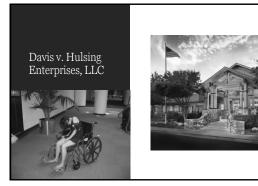
Strict Liability

Any person or other legal entity shall be entitled to recover actual damages suffered in an amount not to exceed a total of two thousand dollars (\$2,000) from the parent or parents of any minor who shall maliciously or willfully injure such person or destroy the real or personal property of such person.

N.C. Gen. Stat. Ann. § 1-538.1



Collateral Source Rule



Negligence per se/Violation of safety statute

GS 18B-305(a): Sale to Intoxicated Person.--It shall be unlawful for a permittee or his employee or for an ABC store employee to knowingly sell or give alcoholic beverages to any person who is intoxicated.

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MOTOR VEHICLE LIENS

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In a nutshell

Who? Person or business who tows, stores, or repairs motor vehicle in ordinary course of business, OR public parking facilities, OR landowner with abandoned MV for 30+days.

What? Right to sell vehicle to obtain reimbursement for reasonable charges of repair, service, towing, or storage.

How? Usually by notifying DMV. When judicial approval is required, often a special proceeding. But sometimes law requires small claims hearing.

Issues before the magistrate: (1) is there a lien? (2) What are the reasonable charges for s ervices rendered (including reasonable storage charges)?

Note special procedural rules!

Amount in controversy = amount of lien (not FMV of vehicle) Action must be brought in county where claim arose (i.e., place of repair, storage, etc.) Service by publication is allowed if plaintiff, using "due diligence," is unable to locate defendant Your judgment authorizes sale; it does not award money.

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This is a POSSESSORY lien.

It arises when plaintiff takes possession and ends when plaintiff surrenders vehicle or defendant pays all amount owed.

Basic lawsuit: Business files CVM-203/COMPLAINT TO ENFORCE POSSESSORY LIEN ON MOTOR VEHICLE / Judgment entered on CVM-402.

Twist: Owner steals his own car: Business files CVM-903/Complaint to Recover Motor Vehicle Held for Lien and to Determine Amount of Lien/Judgment CVM-905

Twist: Owner initiates challenge to lien: Owner files CVM-900/Complaint to Recover Motor Vehicle
Held for Lien and to Determine Amount of Lien/Judgment CVM-905

PLUS Forms CVM-901M (Order for release of motor vehicle held for lien), and CVM-904M (Bond to keep possession of motor vehicle taken from lienor).