

# Basic School Content Outline/Module 7: Torts

A tort is a civil wrong.

Torts fall into two general classes: intentional and negligent.

Common intentional torts are: assault, damage to property, false imprisonment, conversion, unfair/deceptive acts or practices in commerce, and trespass.

Negligent torts involve actions by a *tortfeasor* who failed to behave as a reasonably prudent person would have behaved in similar circumstances.

The general essential elements of an action for negligence require the plaintiff to prove that:

- ✓ Defendant had a duty of reasonable care to the plaintiff.
- ✓ Defendant breached that duty (i.e., was negligent).
- ✓ Defendant's negligence was the proximate cause of injury to plaintiff or plaintiff's property.
- ✓ Plaintiff suffered damages because of defendant's negligence.

*Vicarious liability* is a legal rule holding principals liable for the negligent acts of their agents.

The most common defense in a negligence action is *contributory negligence*.

A plaintiff is entitled to collect *compensatory damages* in a successful tort action. These damages aim to, as much as possible, make the plaintiff "whole." In addition to reimbursement for actual monetary damages such as cost of medical treatment, lost wages, etc., a plaintiff who has suffered physical injury is also entitled to damages for pain and suffering. A plaintiff who has suffered property damage is generally entitled to recover money offsetting the amount of reduction in the property's FMV. Cost of repair may be considered in determining this reduction. Consequential damages – such as loss of use, for example, may also be considered.

The *collateral source rule* prohibits consideration of evidence that plaintiff has received compensation from some source other than the defendant.