



GEORGIA STATE UNIVERSITY LAW



The Foundations of Tort Law



Torts I
Professor Hensel
August 18, 2009

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What Is a Tort?

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Since you're a lawyer, we got you a birthday tort, get it?

What Is a Tort?

General Definition:
A civil wrong not arising out of contract for which the law provides a remedy.

Representative Torts:

- Personal Injury
- Product Liability
- Medical Malpractice
- Defamation
- Assault & Battery






Tort Law vs.

Contract Law

- * Bargain in Advance
- * Duties Imposed by Promise

Criminal Law

- * State Driven
- * Statute Based





Sources of Tort Law

- Common Law:** "judge made" law; evolves from rules handed down in cases over time

Historical Writs:

 - Trespass:** Direct, Forcible Injury; Proof of Damages Not Required
 - Case:** Indirect Injury; Proof of Damages Required
- Civil Law:** statutes passed by legislatures



Why Did These Rules Develop?

THE GOALS OF TORT LAW:



- To Compensate
- To Correct Injustice
- To Effectuate Social Policy
 - Deterrence
 - Loss Distribution
- To Keep the Peace

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How Do These Rules Develop?

The Spectrum of Liability

Attorney's Goal: Determine what facts and principles lead to liability and how they apply to your case.

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Hypothetical

Two high schools were playing a varsity hockey game. All players were acting aggressively, as generally was the case in such games. Donny, a star for Decatur High, suddenly got the puck and skated to the goal. In the adrenaline rush, he lifted his stick forcefully to hit the puck, and instead hit Peter in the mouth, knocking out his two front teeth. Donny did not see Peter before he hit him with his stick. Peter sues Donny for his injuries.

Is Donny liable?
Should Donny be liable?

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Case #1: Anonymous

- * The Role of Fault
- * Liability Regime
- * Goals of Tort Law
- * Donny's Liability

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Case #2: Weaver v. Ward

- * The Role of Fault
- * Liability Regime
- * Goals of Tort Law
- * Donny's Liability

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Case #3: Brown vs. Kendal

- * The Role of Fault
- * Liability Regime
- * Goals of Tort Law
- * Donny's Liability

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Case #4: Cohen vs. Perry

- * The Role of Fault
- * Liability Regime
- * Goals of Tort Law
- * Donny's Liability

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The Intentional Torts: Defining Intent

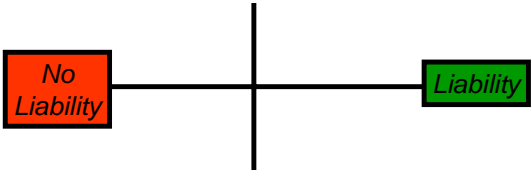
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When will the courts shift a loss from Plaintiff to Defendant?

The Spectrum of Liability




Attorney's Goal: Determine what facts and principles lead to loss shifting (liability) and how they apply to your case.

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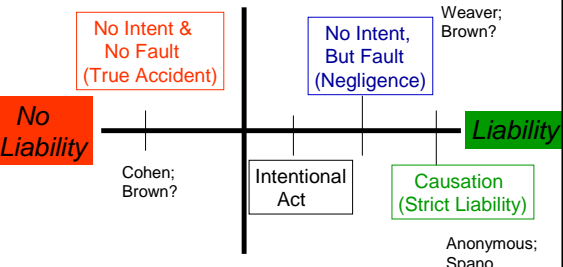
Case #5: Spano vs. Perini Corp.

- * The Role of Fault
- * Liability Regime
- * Goals of Tort Law
- * Donny's Liability



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The Spectrum of Liability



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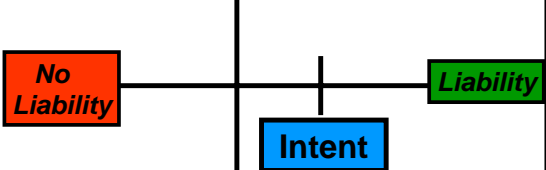
Format of the Course

<u>Fall:</u>	<u>Spring:</u>
Intentional Torts	Negligence
Defenses	Strict Liability
Negligence	Specific Torts



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Intentional Torts




Objective: Determine what it means to act with "intent"

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Defining "Intent"

Garrett v. Daily

- * Statement of the Case
- * Definition of Intent



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Definition of Intent:

Intent is EITHER:


- The desire to bring about consequences against which the law protects; OR
- The substantial certainty that one's actions will bring about consequences against which the law protects

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Defining "Intent"

Garrett v. Daily


- * Statement of the Case
- * Definition of Intent
- * Subjective vs. Objective Inquiry
- * The Role of Age



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Spivey v. Battaglia

- * Statement of the Case
- * Holding
- * Definition of Intent
- * The Role of Skepticism



Mistake / Good Faith

Ransom v. Kitner

- * Statement of the Case
- * The Role of Mistake or Good Faith
- * Policies Justifying Liability
- * Definition of Intent

Note: Case deals with role of mistake in deciding intent. Mistake can play a different role in establishing a privilege.

