

# Chapter 5

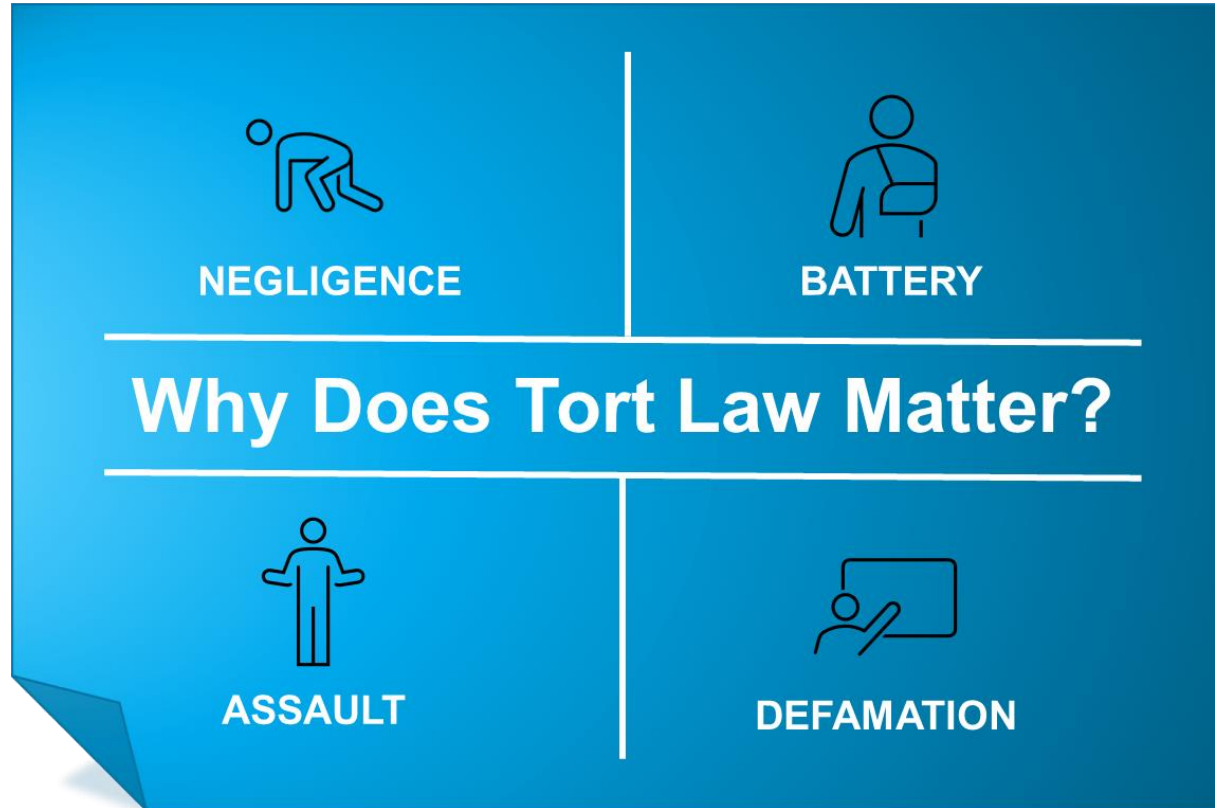
## Tort Law

# Chapter Objectives

By the end of this chapter, you should be able to:

- Describe the goal of tort law.
- Identify damages available in intentional torts.
- Determine whether the elements for various intentional torts have been met.
- Explain negligence per se.
- Identify defenses available for a negligence action.
- Explain the defenses available for an intentional tort action.

# Why does Tort law matter?



**Scenario Example:** Bill loses clients as a result of Jack making a false statement of fact about his business. Has Jack committed a tort?

# The Basis of Tort Law

## The Purpose of Tort Law


- Provide remedies for damages
- Damages available in tort actions
- Classification of torts
- Defenses

# Damages Available in Tort Actions (1 of 2)

## Compensatory Damages

- Special Damages
  - Medical expenses
  - Lost wages and benefits
  - Irreplaceable item loss
  - Repair costs
- General Damages
  - Physical or emotional pain and suffering
  - Loss of companionship
  - Loss of reputation
  - Loss or impairment of mental or physical capacity

# Damages Available in Tort Actions (2 of 2)

- **Example 5.1** Chedrick Starks 
- Punitive Damages (mainly on intentional tort actions)
- Legislative Caps on Damages (from \$250,000 to \$750,000)

# Knowledge Check

Because the purpose of tort law is to compensate the injured party, which of the following is *not* a type of damage that plaintiffs seek in tort actions?

- A. Medical expenses
- B. Lost wages and benefits
- C. Loss of reputation
- D. None of the above

# Classification of Torts Discussion

## Intentional Torts

- Violation of persons or property with intent

## Unintentional Torts

- Negligence, breach of duty to act reasonably



# Defenses

## Consent

- Consenting to a damaging act is not a tort liability

## Comparative Negligence



- Most widely used defense in negligence actions

## Statute of Limitations

- 2 years

# Intentional Torts Against Persons

## Assault and Battery

- Tort law aims to protect individuals
  - **Example 5.2** Alex 
  - **Example 5.3** Ivan 

## False Imprisonment

- **Case Example 5.4:** Justin Mills 

## Intentional Infliction of Emotional Distress

- Governs commercial transactions in all 50 states

# Business Law Analysis: Analyzing Intentional Infliction of Emotional Distress Claims

## Polling Question

Are Kiwanuka's allegations sufficient to show outrageous intentional conduct that resulted in severe emotional distress?

Yes





No

Explain your reasoning to another person or classmate.

# Group Breakout Discussion: Ethical Issue

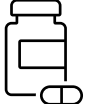
- A spouse can sue for “alienation of affections,” a variation on the tort of intentional infliction of emotional distress in the following states:
  - Hawaii
  - Mississippi
  - New Mexico
  - North Carolina
  - South Dakota
  - Utah
- Can a person be liable for a tort for ruining a plaintiff’s marriage?

# Intentional Torts Against Persons Defamation

- Covers municipal or county matters not covered by federal or state law
- **Example 5.6** Vickie 
- **Case Example 5.7** Eddy Ramirez 
- **Example 5.8** Jorge 
- **Case Example 5.9** Tiegen v. Slice 

# Invasion of the Right to Privacy and Appropriation (IRPA)

1. Intrusion into an individual's affairs or seclusion

- **Example 5.10** Sharon 

2. False light


- **Case Example 5.11** Funk v. Crime Stoppers 

3. Public disclosure of private facts


4. Appropriation of identity

- **Example 5.12** Advertising Agency 

# Fraudulent Misrepresentation

- **Case Example 5.14** Revell v. Guido 

## Wrongful Interference

- **Classic Case Example 5.15** Lumley v. Wagner & Lumley v. Gye 
- **Example 5.16** Joe's v. Ultimate Sport 
- **Example 5.17** Burke's Meat Company 

# Intentional Torts Against Property

## Trespass to Land

- Protects landowner's rights

## Trespass to Personal Property

- **Example 5.18:** Kelly v. Ryan



## Conversion

- **Case Example 5.20:** Welco v. Mora



## Disparagement of Property

- If a car dealer publishes an ad stating that its rival dealer sells stolen vehicles, then this intentional tort would hurt the business.



# Negligence

- Plaintiff must prove each of the following in a successful negligence action:
  1. Duty
  2. Breach
  3. Causation in fact
  4. Proximate causation
  5. Damages

- **Example 5.21** Juan v. Maya



- **Example 5.26** Monica



# Bogenberger v. Pi Kappa Alpha Corporation, Inc.

## Polling Question

Did the NIU Chapter and its officers owe a duty of care to the pledges, including David, during the hazing event?

Yes

No

Explain your reasoning to another person or classmate.

# Taylor v. Baseball Club of Seattle, L.P. Polling Question

Was the risk of injury from an errant baseball thrown during pregame warm-up foreseeable to a reasonable person with Taylor's familiarity with baseball?

Yes

No

Explain your reasoning to another person or classmate.

# Strict Liability

## Abnormally Dangerous Activities

- The person who is engaged in an abnormally dangerous activity and benefits from it, is responsible for paying for any injuries caused by that activity.

## Other Applications of Strict Liability

- Persons who keep wild animals, for instance, are strictly liable for any harm inflicted by the animals.

# Knowledge Check Video: Intentional Torts



Intentional torts  
transcripts



# Knowledge Check Video Question

Allie is accused of shoplifting at a store, so the security guard locks her in a storage room for several hours until she returns the merchandise. The security guard has committed an intentional tort.

True

False

# Video Debrief: Intentional Torts

Have you ever experienced an intentional tort being committed? Explain.

If not, provide an example of a case where an intentional tort was committed and discuss how it was resolved.

# Self-Assessment

1. What concepts did you find difficult, and thus need to review?
2. How might the topics in this chapter come up in the future in your personal (or work) life?
3. How can you use your personal (or work) experience to contribute for a class discussion on the topics in this chapter?
4. Which topics would you like to independently learn more about?



# Summary

Now that the lesson has ended, you should have learned how to:

- Describe the goal of tort law.
- Identify damages available in intentional torts.
- Determine whether the elements for various intentional torts have been met.
- Explain negligence per se.
- Identify defenses available for a negligence action.
- Explain the defenses available for an intentional tort action.