

Source Document

CIVIL LAW

In our society the law assumes that every person has certain basic rights and it seeks to protect these rights. Among them are the rights to:

personal security

health

safety

privacy

peace of mind

own & enjoy property

maintain a good reputation

move freely from place to place

Any violation of one of these rights may constitute a **TORT**. A tort is not considered a crime per se. However, if you commit a tort, the injured party can sue you. If one of these rights is violated, the injured party has a right to take legal action to sue for damages.

DAMAGES: relief (money or otherwise) granted by the courts dependent upon the seriousness of the wrongful act, its effect, the permanent injury to health, and/or the cost of repairing or replacing damaged property. The judge may award "PUNITIVE DAMAGES" to punish the defendant. Suing for punitive damages means that you are suing to punish the person or group who violated your rights.

In a TORT action, 3 things are necessary to prove:

1. The defendant (person being sued) must owe a duty to the plaintiff (person bringing the suit.)
2. The defendant must have violated that duty carelessly or intentionally.
3. The plaintiff must have suffered injury or damage as a direct result of the violation.

TORT: A CIVIL WRONG AGAINST A PERSON OR HIS PROPERTY (CIVIL LAW)

This is different from a crime...

CRIME: A WRONG AGAINST THE PUBLIC AT LARGE (CRIMINAL LAW)

It is possible to commit a crime and a tort at the same time. For example, drunk driving is a crime. If you hit a pedestrian while drunk driving, the police will arrest you and you can be prosecuted in a criminal court. You may serve prison time. At the same time, that person can sue you for damages against his person. You violated his right to safety.

EXAMPLES OF TORTS

ASSAULT: In Civil Law, an ASSAULT is an open threat or attempt to do physical harm to another person. An "assaulter" must have some ability to carry out the threat; otherwise, it cannot be taken seriously. An ASSAULT, then, involves no touching of any kind. It is a threat or an attempt to hurt the other person.

BATTERY: In Civil Law, a BATTERY is an actual and intentional causing of bodily harm. In fact, a BATTERY is held by the courts to be any unlawful touching of another person without his or her consent.

FALSE IMPRISONMENT: In Civil Law, FALSE IMPRISONMENT is an unlawful use of force that compels a person to be where he does not want to be. It is an act that takes away a person's freedom of movement without having good reason or proper authority. The restraint must be complete with no escape possible. It can be committed by force or by threat. The person must know at the time that he or she is being detained.

NEGLIGENCE: This is the failure to use ordinary care: the kind of care that a reasonable person would use under similar circumstances. When you are negligent (careless) and, as a result, someone is hurt or someone's property damaged, a lawsuit might be brought against you.

There are four requirements for a successful tort action in negligence. It must be established that:

1. The defendant owed a duty or responsibility to the plaintiff.
2. The defendant violated that duty.
3. This violation was the direct cause of injury.
4. The plaintiff suffered damage.

SLANDER: If somebody says something evil and false about you to others and thus injures your reputation, this is SLANDER. SLANDER is done by word of mouth.

LIBEL: Any such injury to your reputation through the sense of sight. If writing, printing, cartoons, or pictures are used, you may bring a LIBEL suit against the person who did the wrong to you.

The essentials for a lawsuit in a SLANDER or LIBEL case are degrading words spoken or written:

1. About the plaintiff
2. In the presence, hearing, and understanding of a third party
3. Falsely and with malice
4. Causing damage.

NUISANCE: Includes anything that unlawfully injures the health, offends the senses or interferes with the free enjoyment of life and property. A nuisance annoys, injures, or endangers people. It violates the basic right of every person to health, safety, comfort, and sense of decency. Examples: breaking windows, unlawfully pouring smoke out of a factory smokestack, channeling a stream of rainwater onto a neighbor's property, keeping a rooster in the middle of the city, etc. State statutes and local ordinances usually define nuisances.

There are 2 kinds of NUISANCE:

1. A public nuisance is one that affects a lot of people
2. A private nuisance is one that affects a single person or small group of people.

TRESPASS: This is the intentional interference with someone else's property. It is also going onto another person's land without permission. It does not matter whether any actual damage results. There is no trespass when permission has been granted.

Two different situations may arise...

1. The Trespasser has no right to be on your property. You don't want him there, and he is not supposed to be there. However, you must keep from willfully hurting him.
2. The Trespasser is on your land without invitation, but you do not throw him off. You just tolerate him. You owe him the duty to keep from setting or keeping a trap. You must warn him of any hidden danger on your property that you know about and he doesn't.

CONTRACT & SALES: A CONTRACT is an agreement between 2 or more people to do or not do something.

A legal contract requires 7 things:

1. One person must make an offer and the other person must accept it.
2. The parties involved must understand each other and the agreement (meeting of the minds.)
3. The parties to the contract must be competent (i.e. understand what they are doing.)
4. The agreement must not violate law.
5. There must be something of value passing between the parties.
6. The agreement must be a serious one. It must not be for a joke.
7. All contracts involving assets over \$500.00 must be in writing.

The law gives special treatment to children who make contracts. Because they don't have as much experience as adults, the law protects them. If a child discovers that he has made a mistake, the law usually allows him to return the goods and get his money back.

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Name _____

Hour 1 2 3 4 5 6 7

CIVIL LAW CASES

Directions: Using the definitions of the Civil Law terms, examine the given cases and answer the questions that follow.

Case No. 1

Your bicycle disappears. You think Harlow took it. As you walk across the school ground, you see Harlow sitting against a tree playing his harmonica. You pick up a big rock and approach him. With anger in your voice, you accuse him of stealing your bike. Brandishing the rock, you say you are going to crack his skull with it. Just then, Harlow's brother shows up on the scene.

Have you committed an assault? A battery? Or both? Give an explanation for your choice.

Case No. 2

A girl comes up to you and your friends. She calls you bad names.

Would you win an assault case against her? Why or why not?

Case No. 3

It is wintertime. You are engaged in a snowball fight with some other boys. You make an especially hard, icy snowball and throw it at Bob, hitting him in the mouth. Bob doesn't like this. He comes after you and starts throwing fists.

Is he right in beating you up? Why or why not? What kind of case might come up?

9

Case No. 4

Rhoda wants to enter the XYZ building. She has a legal right to do so. However, because Mrs. Marlow, the owner, does not want Rhoda on the property, she locks all the doors and windows. When Rhoda discovers she is locked out, she sues Mrs. Marlow for false imprisonment.

Can she win? Explain.

Case No. 5

Ben is asleep in a room on the tenth floor of a hotel. The only way out is through a single door. Henry knows Ben is in the room. Without any legal authority to do so, he locks the door. One hour later, Ben wakes up, leaves the room, goes down the elevator and out of the hotel. Later, Ben learns that Henry had locked him in the room for awhile. He becomes angry and decides to sue Henry for false imprisonment.

Can he win? Explain

Case No. 6

A boy in your neighborhood is angry with you. He meets you in an alley and calls you a thief and a murderer. These things are not true. You sue him for slander.

Can you collect? Why or why not?

Case No. 7

During the lunch period you open your chocolate milk and start drinking. You get halfway through and discover a cigarette butt in the carton; this makes you ill. You sue the milk company for negligence. The company claims, "We didn't do this on purpose. We didn't even know about the cigar butt."

Is this company guilty of negligence? Why or why not?

Define:

92 1. Consent: _____

112 2. Debate: _____

134 3. Draft: _____

295 4. Monarchy: _____

354 5. Popular: _____

461 6. Submit: _____

525 7. Violate: _____

95 8. Contract: _____

116 9. Delegate: _____

152 10. Essential: _____

330 11. Pamphlet: _____

357 12. Preamble: _____

505 13. Tyranny: _____

536 14. Welfare: _____

910 15. Concurrence: _____

130 16. Diverse: _____

333 17. Participate: _____

379 18. Ratify: _____

522 19. Version: _____

248 20. Judicial: _____