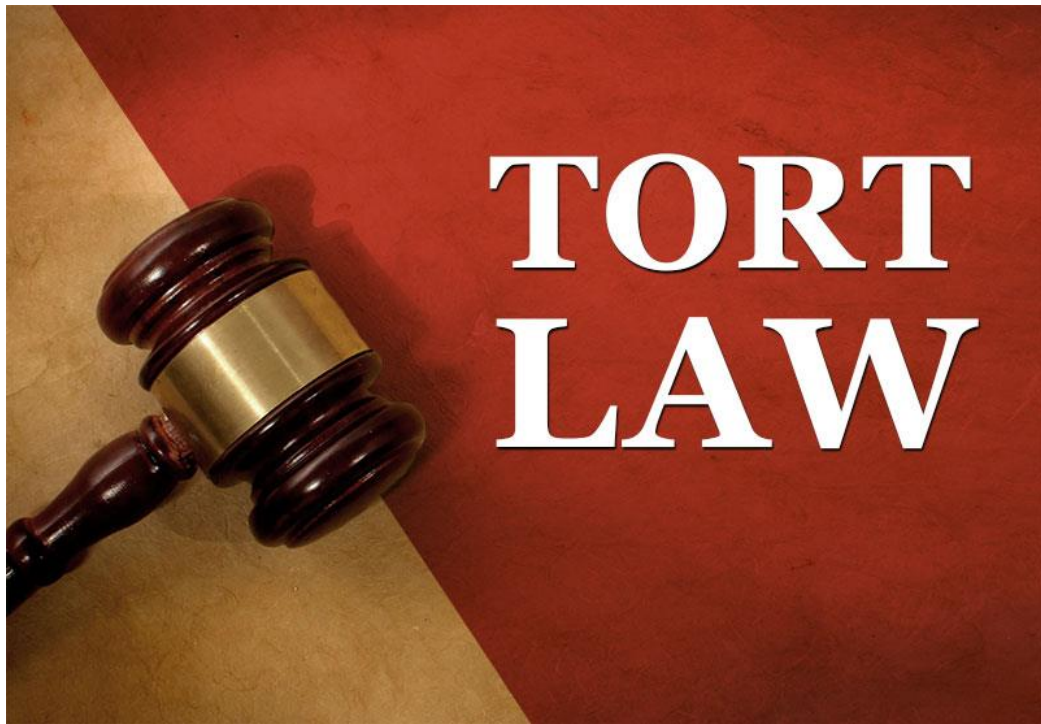


# LAW AND ORDER

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In civil litigation, contract and tort claims are by far the most numerous. The law attempts to adjust for harms done by awarding damages to a successful plaintiff who demonstrates that the defendant was the cause of the plaintiff's losses. Torts can be intentional torts, negligent torts, or strict liability torts. Employers must be aware that in many circumstances, their employees may create liability in tort. This chapter explains the different kind of torts, as well as available defenses to tort claims.

## **Definition of Tort**

The term *tort* is the French equivalent of the English word *wrong*. The word *tort* is also derived from the Latin word *tortum*, which means twisted or crooked or wrong, in contrast to the word *rectum*, which means straight (*rectitude* uses that Latin root). Thus conduct that is twisted or crooked and not straight is a tort. The term was introduced into the English law by the Norman jurists. Long ago, *tort* was used in everyday speech; today it is left to the legal system. A judge will instruct a jury that a tort is usually defined as a wrong for which the law will provide a remedy, most often in the form of money damages. The law does not remedy all "wrongs." The preceding definition of tort does not reveal the underlying principles that divide wrongs in the legal sphere from those in the moral sphere. Hurting someone's feelings may be more devastating than saying something untrue about him behind his back; yet the law will not provide a remedy for saying something cruel to someone directly, while it may provide a remedy for "defaming" someone, orally or in writing, to others. Although the word is no longer in general

use, tort suits are the stuff of everyday headlines. More and more people injured by exposure to a variety of risks now seek redress (some sort of remedy through the courts). Headlines boast of multimillion-dollar jury awards against doctors who bungled operations, against newspapers that libeled subjects of stories, and against oil companies that devastate entire ecosystems. All are examples of tort suits.

The law of torts developed almost entirely in the common-law courts; that is, statutes passed by legislatures were not the source of law that plaintiffs usually relied on. Usually, plaintiffs would rely on the common law (judicial decisions). Through thousands of cases, the courts have fashioned a series of rules that govern the conduct of individuals in their noncontractual dealings with each other. Through contracts, individuals can craft their own rights and responsibilities toward each other. In the absence of contracts, tort law holds individuals legally accountable for the consequences of their actions. Those who suffer losses at the hands of others can be compensated. Many acts (like homicide) are both criminal and tortious. But torts and crimes are different, and the difference is worth noting. A crime is an act against the people as a whole. Society punishes the murderer; it does not usually compensate the family of the victim. Tort law, on the other hand, views the death as a private wrong for which damages are owed. In a civil case, the tort victim or his family, not the state, brings the action. The judgment against a defendant in a civil tort suit is usually expressed in monetary terms, not in terms of prison times or fines, and is the legal system's way of trying to make up for the victim's loss.

## Tort Law



**Tort law provides remedy against a civil wrong where a claimant suffer loss or harm.**

## Kinds of Torts

There are three kinds of torts: intentional torts, negligent torts, and strict liability torts. Intentional torts arise from intentional acts, whereas unintentional torts often result from carelessness (e.g., when a surgical team fails to remove a clamp from a patient's abdomen when the operation is finished). Both intentional torts and negligent torts imply some fault on the part of the defendant. In strict liability torts,

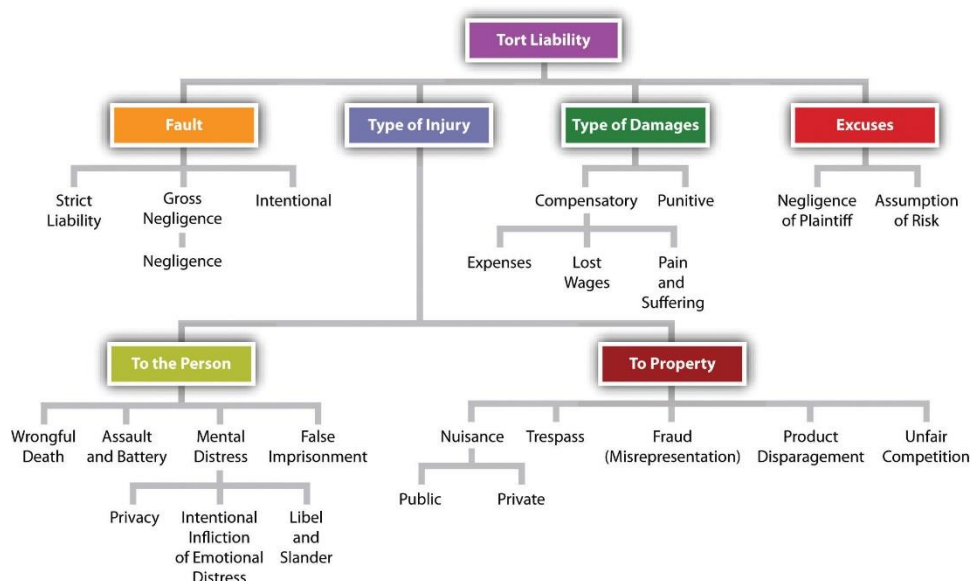
by contrast, there may be no fault at all, but tort law will sometimes require a defendant to make up for the victim's losses even where the defendant was not careless and did not intend to do harm.

## Tort Law

- Civil wrongs that cause harm or injury
- State law created by judges and legislature
- Three general classes of torts: strict liability, negligence and intentional
- Damages: loss of earnings capacity, pain and suffering, and medical expenses

### Dimensions of Tort Liability

There is a clear moral basis for recovery through the legal system where the defendant has been careless (negligent) or has intentionally caused harm. Using the concepts that we are free and autonomous beings with basic rights, we can see that when others interfere with either our freedom or our autonomy, we will usually react negatively. As the old saying goes, “Your right to swing your arm ends at the tip of my nose.” The law takes this even one step further: under intentional tort law, if you frighten someone by swinging your arms toward the tip of her nose, you may have committed the tort of assault, even if there is no actual touching (battery).





# Law Idioms

**Above suspicion**

**Meaning:** When one is not suspected of doing anything wrong since they are sincere.

**Example:** When the vase broke, only Ginny was above suspicion in the entire house.

**Under the table**

**Meaning:** To perform an activity privately since it is unlawful and illegal.

**Example:** The restaurant looked exceptionally well maintained, but they supplied drugs under the table.

**Justice is blind**

**Meaning:** This idiom means that justice is objective and impartial.

**Example:** She had two kids, but still, she was given a punishment of 5 years of jail. Justice truly is blind.

**In the eyes of the law**

**Meaning:** When something is declared to be right or wrong according to the law.

**Example:** Meredith knew that Alex committed the crime unintentionally, but in the eyes of the law, he was a criminal.

**Act of congress**

**Meaning:** Something that requires immense hard work and patience.

**Example:** Completing an English project is indeed an act of congress.

**Mend your ways**

**Meaning:** To make some good changes in one's behaviour.

**Example:** My class teacher asked me to mend my ways to stay in the school.

**Bail out**

**Meaning:** Stop doing something or getting out of something.

**Example:** Justin bailed out of our Science project just at the last time.

**The jury is out**

**Meaning:** This idiom states that the decision has not yet been taken, and hence nothing is still evident.

**Example:** We should not accuse him of the murder since the jury is still out.

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