

Torts

Tort (definition)

French for 'wrong'.

Tort law: A lawful way for people to seek remedies when wronged.

Often overlaps with contract law and criminal law.

Can be the result of either intentional or negligent acts. Necessary to establish that the act was either intentional or reckless.

Tortfeasor: The one(s) committing the act.

Law relating to this form of offence dates to Babylonian times (Hammurabi's Tablet), Roman times and 13th century Britain (The Writ of Trespass).

Main types of torts

Interference with the Person

- **Assault**
- **Battery**
- **False imprisonment**

- 1) Must be a voluntary act
- 2) Injurious effect must be immediate
- 3) Injury must be intentional or result from recklessness.

- **Assault can be just a threat**
- **Must not be conditional**
- **Victim must believe threat can be carried out**
- **'Imminently' doesn't mean immediately**
- **Battery is offensive physical contact (normal social touching is ok)**
- **False imprisonment – total restraint of the victim in an area defined by the tortfeasor for any length of time. The victim need not be aware of their imprisonment, it is still a tort.**

Interference with goods

A voluntary act by the tortfeasor that directly interferes with the plaintiff's possession of goods.

- **Trespass**
- **Conversion**
- **Detinue**

There are various categories of trespass which aren't necessary to discuss here, and if we're successful with these processes, we won't have much or any occasion to deal with the normal one, that of unwanted presence on our property by someone we've asked to leave.

Conversion refers to intentional acts which fundamentally exclude the plaintiff's possession. For example, the unauthorized seizure of goods, which may in turn be passed onto other unauthorized possessors. Examples would be the unlawful confiscation of pharmaceuticals or clamping or impounding of motor vehicles, by those not possessing lawful authority.

Detinue is refusal to return goods to the plaintiff after a demand has been made for their return.

Defences against these charges may be:

A claim of right

Lawful authority

Consent

Necessity

Ex turpi causa (means a claimant will be unable to benefit through the courts for a legal action should it arise from their own illegal act).

Literal translation: "from a dishonourable cause an action does not arise"

Remedies

The aim of remedies is to seek compensation for the harm that has been done to us. This is normally in the form of damages, which could be

- **Exemplary** which are designed to make an example of the tortfeasor and discourage others from doing the same. Usually awarded when there is some evidence or sign of malice.

- **Nominal or contemptuous** which indicate a moral victory where no real harm was suffered.
- **Restitution in integrum** the purpose is to restore the plaintiff to their position before the breach. Damages are calculated at the date of the tort.

Multiple Tortfeasors

There are different classifications for these:

- **Joint** – in it together, where each is responsible for the whole remedy, but if one provides redress, all are discharged.
- **Severel** – combined to cause harm, but no common design. In a Court case, responsibility can be apportioned according to degree of offensiveness. Each tortfeasor is liable once for their own portion.

A liable tortfeasor may sue the others to pay a share. Contributors may not have been party to the initial action.

These are the main ones with which we will be dealing, but there are numerous others and variations in situations with rulings that have accrued over time.

Torts do not have to be settled in a court hearing. Often a confidential settlement is obtainable, particularly where it is a case of 'No contest', or where the tortfeasor has no credible defence, for instance in the case of an un rebutted affidavit, whereby tacit agreement has been granted to the plaintiff's claims.

The Commercial Lien process is one instance where courts are not involved unless the tortfeasor wants to fund a Common Law Court de Jure, where they would have to convince a jury of 12 that the lien should not have been issued. Judges, not having first-hand knowledge of the circumstances and veracity of the affidavit, are excluded from this process, it is purely between the combatants and the jury that the validity of the affidavits is determined, based upon the verifiable evidence. That is because torts, established over millennia, are common law offences, which is a superior jurisdiction to Statutory law.

Torts committed against those standing under Article 61

(Including but not limited to)

Fraud (making demands without Constitutional authority),

Deception (withholding of material information regarding the nature of your department's interaction with me, i.e. that it was contractual, not a statutory obligation),

Misrepresentation/impersonation (claiming to be a Commonwealth officer without providing identification),

Assault (making unlawful threats calculated to cause psychological damage by inducing fear of loss and unlawful prosecution),

Defamation (accusing me in writing of criminal behaviour or the threat of being branded a criminal with a criminal conviction, despite there being no harm caused to anyone and no victim of said alleged crime),

Extortion (demanding of money with menaces, to wit the threat of unlawful prosecution),

Denial of due process (by threat of summary justice in an unconstitutional magistrate's court, without my having been convicted of any crime by a jury of my peers - see Articles 39 and 40 of Magna Carta).

Trespass (interference with my freedom to act in conscience in accordance with accepted community standards of behaviour i.e. to do no harm, cause no loss, commit no fraud, and keep the peace – infringement of bodily autonomy and/or integrity. Interference with my freedom to enjoy unrestrained access to and use of my personal property, including money or any other goods capable of being subject to ownership).