List and explain the generally recognized business torts

Generally Recognized Business Torts A business tort is essentially an act that it considered to be illegal. Although it is not a crime, in most countries laws have been made to protect the interests of business companies from torts. The wrong committed in this kind of tort usually results in losses incurred by one of the business entities involved in a transaction that is legally binding. The perpetrator, on the other hand, is party also to the agreement reached. According to Keller, “ a tort is committed when a duty owed by one person to another is breached and thus causes injury or damage to the owner of the interest.” (54) In a business case, the said damage is usually in the form of financial losses of the aggrieved party. There are actually three basic business torts; namely, malfeasance, misfeasance, and nonfeasance. There could be other particular business torts but all these are related or derived from the said basic three. 1. Malfeasance This is a business tort that is committed maliciously by the perpetrator. This means that there is a clear intent against the aggrieved party, such as the aim of causing such the potential loss of revenues by the said business entity. Business malfeasance must, however, be distinguished from corporate malfeasance. This is especially because both are committed in the same sector. In corporate malfeasance, it is an employee or an executive that causes harm to the company whereas in business malfeasance, one party in a partnership, such as a joint business venture could be the perpetrator. An example of this is that of two companies who have agreed on a raw material sales transaction. Company A is involved in providing finished products to a certain distributor. Company B, on the other hand, sells raw materials to Company A. However, as Company B acquires the capabilities to supply the distributor with its own finished products, it decides to intentionally create problems in the delivery of the raw materials for Company A. As a result, Company A suffers from loss of adequate raw material supply base, rendering it unable to meet the orders of the distributor. Due to the malicious intent of the Company B, it commits a business tort, particularly malfeasance. 2. Nonfeasance Unlike malfeasance, nonfeasance does involve any willful or unlawful attempt to cause damages to the business of another. The major difference between the two is that " nonfeasance is the failure to act when there is a duty to do so, whereas malfeasance is an affirmative act made in a negligent manner." (Casenote Legal Briefs 64) However, because of the failure to comply with a duty as bound by a business agreement, the same result occurs to the aggrieved party. Therefore, even it is not criminal or highly malicious the failure to perform according to the legally binding business agreement is still considered as a tort. An example of nonfeasance is when a raw material supplier simply fails to provide the needed quantity of items to a manufacturing firm, which ultimately results in the losses of the latter. 3. Misfeasance In misfeasance, there the perpetrator may have attempted to meet its obligation to another business entity. However, in doing so, it may commit serious mistakes that could result into the failure of completing its task as required by the said business entity, which then results into losses incurred by the latter. A clear example of this is when a supplier attempts to achieve the quota required by a buyer even if it may not have the capability do so. As a result, it ends up providing low quality products to the buyer, who ultimately suffers when these are sold in the market. What makes this particular business tort difficult to appraise is the fact that a perpetrator may admit to misfeasance but not malfeasance. The distinction of intention and unintentional is often blurred here, a problem faced by litigators and judges until today. To do so, judges usually dwell on the " circumstances and nature of the business relationship, rather than the categorization of the defendant's conduct, which is the determinant in principle of the defendant's liability in negligence or deceit." (Cockburn & Wiseman 85) Nevertheless, when compared to other torts, cases of misfeasance may take longer to conclude. Works Cited Casenote Legal Briefs. Business Organizations/Corporation, Keyed to Cary & Eisenberg. New York, N. Y.: Aspen Publishers, 2002. Cockburn, Tina and Leanne Wiseman. Disclosure Obligations in Business Relationships. Sydney, Australia: Federation Press with the Centre for Commercial Property Law, QUT, 1996. Keller, William. The Essentials of Business Law. Piscataway, N. J.: Research and Education Association, 1990.