

# What is intentional tort all about

Law



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## Introduction

There are many cases in our society where people are assaulted with or without reason. A lot of us are not really well informed about these issues. People may be experiencing these attacks, beating, smashing, whipping and other acts that inflict pains or damages to them or even to their properties but nobody even tries to act about this. These acts are considered as intentional torts.

Intentional torts are any infliction of injury or damage to a person or property that was carried out with malice, wilfulness, or reckless disregard for other person's rights (www. personal-injury-info. net, Intentional Torts-Malice).

Larson (2005) defined intentional torts as something that occurs where the defendant intentionally causes the plaintiff to suffer an injury or damage.

Thus given the definitions above, there is a need to know more about intentional torts.

## Discussion

Intentional tort is one of the three classifications of Personal law or Tort law. Personal law or Tort law is intended to protect a person or property from injuries or harms because of someone else's action or failure to act (<http://public.findlaw.com>, Personal Injury). This claim is civil in nature which the defendant compensates the victim with money or another remedy which is an injunction (<http://public.findlaw.com>, Personal Injury). The other two classifications of torts are negligence and strict liability (<http://public.findlaw.com>, Personal Injury). Intentional tort differs from these two other forms because of the presence of intent, will, or malice. Negligence is absence of intention to cause harm or injury but injury or damage is caused if a person acted unreasonably or without care. Strict liability is designed to <https://assignbuster.com/what-is-intentional-tort-all-about/>

take care of the unwarranted risks of harm to community for those people who engaged in risky activities.

For intentional torts cases to proceed, the victim must be able to prove that the defendant has an intention or malice to harm or cause injury to the victim. Therefore, a person liable for an intentional tort is someone who acted with plan to cause injury and not just someone who acted carelessly. For example, a pharmacist gave a medicine to a customer which is not the one identified in the prescription given by the doctor. As a result, the customer suffered injuries and was hospitalized. The pharmacist can be said to have acted with malice and intent to harm the victim because the person did not give the proper medicine prescribed. A person should desire to inflict harm to others. Historically, this is what usually what the courts require to be able to prove intentional tort.

The most common examples of intentional torts are assault and battery (Larson, 2005). In these forms of tort, the doer intends to cause damage to victim as opposed to causing harm by accident or oversight (Larson, 2005). However, as time goes by, the courts have different requirements and decisions for cases.

Intentional torts may be committed in one of two ways: 1) when the defendant intends to cause the harm resulting from his or her actions; and 2) when the defendant has substantial certainty that harm will result (White v. Muniz, 2000). In the case of White v. Muniz (2000), there was an issue whether an intentional tort requires some proof that the defendant not only intended to contact another person, but also intended that the contact be harmful or offensive to the other person. Thus in this case, there is a question whether the person should not only intend to harm the other person

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but also intend that his action is harmful to other person. The defendant is Everly, an 83 year old person diagnosed with primary degenerative dementia of the Alzheimer type, senile onset, with depression. Muniz, the plaintiff, is a shift supervisor in an assisted living facility where Everly stayed. Muniz was advised by the caregiver that Everly was very agitated recently and was not cooperating. When Muniz reached to change Everly's diaper, Everly struck Muniz on the jaw and ordered her out of the room. Muniz filed a case against Everly alleging assault and battery, the two most common examples of intentional torts.

Battery as a form of intentional tort was defined in *Brzoska v. Olson* (1995) as an intentional, unpermitted contact on another which is harmful or offensive; and that the intent necessary for battery is the intent to contact the person. The court in *White v. Muniz* (2000) held that regardless of the characteristics of the alleged tortfeasor, a plaintiff must prove that the actor desired to cause offensive or harmful consequences by his act and plaintiff need not prove, however, that the actor intended the harm that actually results. Mental illness is not a defense to an intentional tort, however it may, like other mental states (such as infancy), be viewed as one factor in the totality of circumstances upon which a jury relies to make its determination (*White v. Muniz*, 2000).

## CONCLUSION

Intentional tort is therefore different from the two other forms and is deemed intentional if the defendant intended for the physical consequences or damage to happen or will likely happen as a result of their action ([www.personal-injury-info.net](http://www.personal-injury-info.net), Intentional Torts-Malice). Intentional tort and the two other forms of Torts (negligence and strict liability) are different in such <https://assignbuster.com/what-is-intentional-tort-all-about/>

a way that malice and intent are present in the former while absent in the latter.

As a civil action, intentional tort is considered as one of the cases which courts have varying decisions over time. Not only does intentional tort can be committed in different ways, there are also varying requirements of proof to proceed on this action and many defences to bring the action into dismissal. Intentional tort can be committed in two ways such that a person intends to cause harm resulting from his actions and the other, a person has significant belief that harm will result. The possible defences in intentional torts used by the defendants are consent, self-defense, defense of others, defense of property, repossession of property, public necessity, private necessity, assumption of risk, truth, comparative negligence or justification (www. personal-injury-info. net, Intentional Torts-Malice). Thus, in a civil action for intentional tort, the plaintiff must be able to establish strong proof of intent and disprove the defences of the defendant to be able to ask for remedy or reparation of the damage caused to him or her.

Cases:

Brzoska v. Olson, 668 A. 2d 1355, 1360 (Del. 1995)

White v. Muniz, No. 98SC760 (2000)

Web:

Larson, Aaron. Intentional Torts and Personal Injury, (2005). Web. 29 June 2011

“ Personal Injury.” <http://public.findlaw.com>, (2004). Web. 29 June 2011

“ Intentional Torts-Malice.” [www.personal-injury-info.net](http://www.personal-injury-info.net), (n. d.). Web. 29 June 2011

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