

Introduction to Business Law

Sixth Edition

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Chapter 7 – Intentional Torts and Business Torts

Food for Thought:

- They had no defense when mean and nasty statements were posted about them online

Chapter 7 – Intentional Torts and Business Torts (1 of 4)

- **Tort:** A violation of a duty imposed by the civil law
- **Intentional Tort:** Harm caused by a deliberate action
- 7-1 Intentional Torts
 - 7-1a Defamation
 - **Libel:** Written defamation
 - **Slander:** Oral defamation

7-1 Intentional Torts (2 of 4)

- 7-1a Defamation (cont)
- The elements in a defamation case are:
 - **Defamatory statement:** A factual statement likely to harm another
 - **Falsity:** The statement must be false
 - **Communicated:** It must be communicated to at least one other person
 - **Injury:** plaintiff must show injury unless the statement constitutes slander *per se*
- A public official can prove a defamation case only by showing defendant's **actual malice**

7-1 Intentional Torts (3 of 4)

- 7-1b False Imprisonment
 - **False imprisonment:** The intentional restraint of another person without reasonable cause and without consent
 - Generally, a store may detain a customer or worker for alleged shoplifting provided there is a reasonable basis for the suspicion and the detention is done reasonably

7-1 Intentional Torts (4 of 4)

- 7-1c Battery and Assault
 - **Battery:** A harmful or offensive bodily contact
 - **Assault:** An action that causes another person to fear an imminent battery
- 7-1d Fraud
 - **Fraud:** Injuring someone by deliberate deception
- 7-1e Intentional Infliction of Emotional Distress
 - **Intentional infliction of emotional distress:** Extreme and outrageous conduct that causes serious emotional harm

7-2 Damages (1 of 4)

- 7-2a Compensatory Damages
 - **Compensatory damages:**
Are intended to restore the plaintiff to the position he was in before the defendant's conduct caused injury
 - **Single recovery principle:** Requires a court to settle a legal case once and for all, by awarding a lump sum for past and future expenses

7-2 Damages (2 of 4)

- 7-2b Punitive Damages
 - **Punitive damages:** Punishment of the defendant for conduct that is extreme and outrageous
 - The U.S. Supreme Court has ruled that a verdict must be reasonable; in awarding punitive damages, a court must consider three guideposts:
 - The reprehensibility of the defendant's conduct
 - The ratio between the harm suffered and the award, and
 - The difference between the punitive award and any civil penalties used in similar cases

7-2 Damages (3 of 4)

- 7-2c Tort Reform and the *Exxon Valdez*
 - Some people believe that jury awards are excessive and need statutory reform; others say that excessive awards are rare and modest in size
 - About half of the states have passed limits
 - The laws vary, but many distinguish between **economic damage** and **noneconomic damage**
 - Typically, noneconomic damages are capped

7-2 Damages (4 of 4)

- 7-2d Business Torts
 - **Tortious interference with a contract:** Occurs when a defendant deliberately harms a contractual relationships between two other parties
 - **Commercial exploitation:** Prohibits the unauthorized use of another person's likeness or voice for business purposes

Chapter Conclusion

- **This chapter has been a potpourri of misdeeds, a bubbling cauldron of conduct best avoided**
- Although tortious acts and their consequences are diverse, two generalities apply:
 - The boundaries of intentional torts are imprecise, the outcome depending upon the fact finder who analyzes it
 - Thoughtful executives and careful citizens, aware of the shifting standards and potentially vast liability, will strive to ensure that their conduct never provides that fact finder an opportunity to give judgment