
§ 6.5**Claims for Relief***Causes of Action*

TELLING THE PLAINTIFF'S STORY

A tort is a civil wrong. A contract is a legally binding agreement between parties. Commissions of torts and breaches of contracts constitute most causes of action in civil litigation. The following is an introduction to some basic torts and breaches of contracts that could be the basis of claims (causes of actions) in civil matters.

INTENTIONAL TORTS

Defamation, Libel, and Slander

Damage to a party's reputation, image or standing in the community

Wrongful Imprisonment (or False Imprisonment)

Restriction of an individual's freedom of movement, physically or mentally

Malicious Prosecution and Abuse of Process

Forcing a party to defend him or herself against baseless prosecution

Trespass and Nuisance (these are environmental torts)

Unwarranted and unauthorized entry onto property, or devaluing the enjoyment of property due to the intrusive acts of another

Assault

The imminent fear for one's well-being

Battery

Unauthorized touching of a person

Misrepresentation

Deceit; deliberately misleading another

Conversion

Unauthorized transfer of money or property

Intentional Infliction of Emotional Distress

Doing mental or psychological harm by act or by omission

NEGLIGENT TORTS

Negligence

Establishment of a duty, followed by a breach of that duty, and an establishment of damages. (For compensation to be awarded, it must be established that the negligence was the *proximate cause* of the damages.)

Negligence per se

Negligence while violating the law

Wrongful Death

Death caused by another's negligence

CONTRACTS

Breach of Contract

Failure to fulfill certain written or oral commitments

Bad Faith

Entering into an agreement with no intention of fulfilling obligations

Breach of Fiduciary Duty

Failing to act in the best financial interest of a client when an obligation exists to do so

EXERCISE | CAUSES OF ACTION

Identify the relevant cause of action in the following:

1. An elderly woman lives in an apartment. It is winter and a portion of the sidewalk has developed a pothole one foot deep and two by three feet long. The management places a piece of plywood over the hole, but when it snows the wood becomes icy and difficult to walk on. Despite repeated complaints from tenants, nothing is done to repair the sidewalk for three months. One morning, the plywood breaks as the woman walks across it. She falls, breaking her ankle.
2. An attorney has agreed to take a divorce case. The client is concerned that the settlement agreement favors his wife. The attorney assures his client that the agreement is fair and so the client signs the document. However, shortly after the decree is entered, the attorney admits dating his client's wife throughout the divorce.