1. INTENTIONAL TORTS

Intent – to act with the desire to produce the legally forbidden concept or purpose

Substantial certainty – acting knowing the consequence is substantially certain to occur

Transferred Intent – if tortfeasor is acting with intent and commits a tort against another, still intent

* 1. Battery – protects the integrity of the battery
     1. Is there a harmful or offensive contact?
        1. Harmful – causes injury
        2. Offensive – offends a reasonable sense of dignity
     2. Is that contact with the body (person) of another?
        1. Includes something you might be holding, ie a cane or a dog on a leash
        2. Fisher v Carrousel Motor Hotel (black patron holding a tray)
  2. Assault – protects the peace of mind – reasonable apprehension of an imminent battery
     1. Did ∆ place π in reasonable apprehension?
     2. If so, is that apprehension of an imminent battery?
        1. An apparent ability creates a reasonable apprehension
  3. False Imprisonment
     1. An act of restraint
        1. A plausible threat can be an act of restraint
        2. An omission to perform a duty could be an act of restraint (ie failure to stop a car to let out a passenger
        3. Π must be aware of the restraint or suffers a harm because of the restraint
           1. There must be a consequence of the mind or of the body
     2. Confinement in a bounded area
        1. A π is limited 360º
        2. Bounded area does not have to be marked out by physical boundaries – can be marked by threat
        3. Area is not bounded if there is a known and reasonable means of escape
        4. If means of escape are hidden and π doesn’t know about it, it’s as if it doesn’t exist
  4. IIED – Intentional infliction of emotional distress
     1. ∆ must engage in outrageous conduct
        1. conduct that exceeds all bounds of decency tolerated in a civilized society
        2. factors:
           1. power disparity, ie employer employee
           2. repetitive conduct
           3. public rather than private
           4. π is a person of unusual vulnerability that ∆ knows about
           5. deliberately falsely reporting the death of a loved one
     2. π must suffer severe distress
        1. physical reaction is not required
  5. Trespass to land
     1. Walking on someone else’s property or going on their property in a vehicle
     2. Trespass can be committed by throwing something onto someone’s property even if ∆ does not go on to that property
  6. Note – Barbri does not cover Trespass to Chattels or Conversion
  7. Defenses
     1. Consent - Must have legal capacity to consent, ie crazy people, drunk people, developmentally disabled people cannot consent to a tort

The ability of children to consent must be related to age-appropriate torts – ie, can’t consent to sex, can consent to wrestling

* + - 1. Express consent – person says they consent
         1. Express consent procured through fraud or duress does not count as consent

Fraud is usually an omission or misrepresentation of a key fact, ie key fact of identity (not a doctor) – ie of omission (doesn’t tell a sexual partner of an std)

* + - 1. Implied consent
         1. By custom or common practice, ie sports
         2. ‘body language’ consent, ie romantic encounters
    1. Privileged defenses
       1. Self defense
       2. Defense of others
       3. Defense of property
    2. Necessity defenses - Only apply to property torts
       1. Public necessity – invasion of property as a necessity to protect the community
          1. Surocco v Geary
       2. Private necessity – invasion of property as a necessity for private motives
          1. Vincent v Lake Erie

1. NEGLIGENCE
   1. Duty
   2. Default rule – the reasonably prudent person standard – applies unless displaced… In any action, the actor must take the amount of precautions as would be taken by a hypothetical by a reasonably prudent person acting under similar circumstances
      * 1. In all circumstances the standard of care remains the same, but the degree or level of care varies with the circumstances
        2. Superior knowledge or skill is an exception – reasonably prudent person standard is heightened to a reasonably prudent person with similar knowledge or skill
        3. Physical conditions are considered, ie a reasonably prudent blind person
      1. Special duty scenarios
         1. Special standard of care for children – most jurisdictions say children under 4 or 5 can not be liable for negligence – children must behave as would a child of similar age, experience and intelligence acting under similar circumstances
            1. Exception: if that child is engaged in an adult activity, that child is held to the adult, reasonably prudent person standard, ie a child driving a car
         2. Special standard of care for professionals, ie health care providers such as doctors, nurses, lawyers, accountants, etc… - a profession must provide that degree of care as is given by an ordinary member of the same profession providing the same service
            1. Customary practice becomes the standard of care
         3. Duty of care owed by a possessor of real estate to prevent entrants from dangerous conditions
            1. Undiscovered trespassers
   3. Breach of duty
   4. Causation
   5. Damages