

BASICS

I. INTRODUCTION

A. SECTIONS

1. CONTRACTS → MOST FRIENDLY → LAW OF THE DEAL
2. LAW OF DUTIES → TORTS → LAW OF NON-CONTRACTUAL LIABILITY
3. CRIMES: LAW OF PROHIBITIONS → IF YOU DO THEM, YOU GET IN TROUBLE

B. THE MORE YOU SHIFT TO THE RIGHT, THE MORE YOU WANT TO KNOW WHO PERSONALLY BROKE THE LAW.

II. TORTS

A. INTRO

1. BROADEST CATEGORY

B. INTENT → THE LAW WANTS TO KNOW IF YOU INTENDED YOUR ACTION

C. NEGLIGENCE → LAPSES IN JUDGMENT; YOU FAIL TO EXERCISE REASONABLE CARE.

1. PLAINTIFF HAS THE RIGHT TO RECEIVE MONEY DAMAGES

D. INTENTIONAL TORTS

1. INTENT → INCLUDES DISREGARD OF REASONABLE CONSEQUENCES ^{FORSEEABLE}
2. DELIBERATE INTENT: EVEN WORSE

E. DAMAGES

1. PUNITIVES → WE WANT TO PUNISH MORALLY CULPABLE CONDUCT

2. EXAMPLE: FIRESTONE

- a) ONCE YOU KNOW OR SHOULD KNOW ABOUT A PROBLEM, THE STAKES GO WAY UP.
- b) TIME CAN MARCH YOU RIGHT INTO PUNITIVES

F. STRICT LIABILITY → NO SHOWING OF FAULT REQUIRED

1. PRODUCTS

G. WHAT DOES TORT LAW PROTECT

1. PHYSICAL HARM
2. PRIVACY
3. REPUTATION
4. PROPERTY RIGHTS

COMPLICATION: THESE INTERESTS GET INTRUDE UPON ALL THE TIME.

DEFENSE: IMPLIED CONSENT

- a) EX: DOORBELL ON YOUR HOME

- b) ADEQUACY AND SCOPE OF CONSENT

DEFENSE: PRIVILEGE → SOCIETAL GOALS ALLOW CERTAIN CONDUCT

- a) EX: FIREFIGHTER

- b) MANAGERS HAVE SOME PRIVILEGES

1. EX: FINANCIAL SERVICES EMPLOYEE IS ACTING SUSPICIOUS
YOU HAVE A RIGHT, AND PROBABLY THE RESPONSIBILITY,
TO INVESTIGATE.

- a) YOU HAVE TO BALANCE - GIVE EMPLOYEE AN OPPORTUNITY TO BE HEARD, DO THE INVESTIGATION ON A NEED TO KNOW BASIS.

H. REASONABLENESS STANDARD → WHAT IS REASONABLE → REMEMBER, BUSINESS DOESN'T ENSURE OUTCOMES, IT ENSURES REASONABLE CARE.

- a) REMEMBER, LIABILITY CASES START W/ SOMETHING AWFUL.

- b) EX: WHAT IS REASONABLE CARE WHEN YOU'RE RUNNING A CHEMICAL PLANT?

1. INDUSTRY STANDARDS → BUT, THE WHOLE INDUSTRY COULD BE NEGLIGENT.
2. EXPERTS
3. COURSE OF CONDUCT

1
2
3
/ 4

4. PRIOR HISTORY

5. COMPANY'S OWN STANDARDS → SOMETHING HAPPENS TO
RAISE SENSITIVITY AND COMPANY WRITES A POLICY
TO MANAGE THE RISK.

a) IF THEY FAILED TO MEET YOUR OWN STANDARD
YOU'RE TOAST.

b) LESSON: WRITE REASONABLE, NOT ASPIRATIONAL
STANDARDS.

WICKLINE

A. EXPLANATION OF THE FACTS

B. MANAGED CARE WAS MOVING TO PREAPPROVAL PROCESSES

C. MS. WICKLINE DID NOT SUE HIS DOCTOR

D. IMPORTANT CASE - HELD THAT HMO IS NOT LIABLE, BUT THE HOLDING IS THAT
HMO'S CAN BE HELD LIABLE.