



CALIFORNIA BAR EXAMINATION CONTENT MAP

TORTS

The topics listed below are illustrative of those covered in Torts, but are not exhaustive.

I. Intentional torts

- A. Intentional torts to the person
 - 1. Assault
 - 2. Battery
 - 3. False imprisonment
 - 4. Intentional infliction of emotional distress
- B. Intentional injuries to reputation or similar interests
 - 1. Defamation
 - a. Common law privileges and defenses
 - b. Constitutional limitations
 - 2. Invasion of privacy
 - a. Appropriation of plaintiff's name or likeness
 - b. Public disclosure of private facts
 - c. Portrayal in a false light
 - d. Intrusion into private affairs or seclusion
 - 3. Malicious prosecution
 - 4. Abuse of process
- C. Intentional torts to property
 - 1. Trespass to land
 - 2. Trespass to chattel
 - 3. Conversion
- D. Privileges and defenses against above-listed intentional torts

II. Negligence

- A. Duty
 - 1. Standard of due care
 - a. Duty of ordinarily reasonable and prudent person in prevailing circumstances
 - b. Foreseeable plaintiff
 - c. Foreseeable and unreasonable risk
 - d. Custom and usage
 - e. Emergency and imminent peril

2. Particular standards of care
 - a. Common carriers
 - b. Professionals and tradespersons
 - c. Children
 - d. Persons with mental impairment
 - e. Bailor-bailee
 3. Per se standard of care created by statute, regulation, or rule
 4. Standard of care owed by owners and occupiers of land (including invitees, licensees, and trespassers)
 5. Affirmative duty to act
 - a. Assumption of duty/Good Samaritan Rule
 - b. Placing another in peril
 - c. Duty to prevent harm from third persons
- B. Breach
1. Negligent conduct
 2. Risk versus burden and utility
 3. Negligence per se
 4. Res ipsa loquitur
- C. Causation
1. Cause in fact
 - a. "But for"
 - b. Substantial factor
 - c. Alternative liability theory
 2. Proximate cause
 - a. Foreseeability of harm
 - b. Multiple actors
 - c. Intervening and superseding causes
- D. Damages
1. Actual damages
 2. Special and general damages
 3. Punitive damages
 4. Duty to mitigate
- E. Joint tortfeasors
1. Joint and several liability
 2. Satisfaction and release
 3. Contribution and indemnity
 4. Apportionment of damages
- F. Defenses
1. Assumption of risk
 2. Contributory negligence
 - a. Last Clear Chance Doctrine
 3. Comparative negligence

III. Wrongful death and survival

IV. Misrepresentation

- A. Intentional misrepresentation (fraud)
- B. Negligent misrepresentation

V. Economic torts

- A. Interference with contractual relations
- B. Interference with prospective advantage

VI. Products liability – theories of liability

- A. Intent
- B. Strict tort liability
- C. Negligence
- D. Warranty
- E. Misrepresentation
- F. Defenses

VII. Nuisance

- A. Private
- B. Public
- C. Remedies
 - 1. Damages
 - 2. Injunctive relief
 - 3. Abatement
- D. Defenses

VIII. Strict liability

- A. Abnormally dangerous activities
- B. Possession of animals
- C. Defenses

IX. Liability for acts of others

- A. Respondeat superior
- B. Independent contractor and non-delegable duties
- C. Parent's liability for torts of child
- D. Joint enterprise
- E. Automobile owner for driver

X. Immunities from liability

- A. Governmental immunities
- B. Governmental employee immunities
- C. Based on age-related inability to reason
- D. Intrafamily immunities