

Business strategies: New challenges

References

- To succeed in an action for battery the Plaintiff must prove on balance of probabilities that:
 - D caused some form of "physical interference" with his/her person.
 - The interference was direct;
 - The act was intentional or negligent; and
 - There was no "consent" of lawful justification for such conduct.
 - i) Direct application of physical force
 - Any unwanted contact, no matter how trivial is battery: *Collins v Wilcock*
 - Need not be hostile or done in anger: *Coll v Turner*
 - Not limited to bodily contact: *Stubbell v Sheford*
 - Interference followed so closely by D's act that it could be considered part of the act (can be an unbroken series of consequences): *Scott v Shepherd*
 - *Scott v Shepherd*: D threw lighted gun powder squibs at market, in a series of throwing by others to avoid injury it hit P in the face and took out his eye. Held: injury was direct result of D's actions. D was liable in battery
 - Act of D must be active and not passive (e.g. blocking a door entirely passively or like a wall would not constitute battery): *Irwin v Hyde*
 - ii) Fault
 - There is no liability unless the act is done intentionally or negligently: *Coll v Turner*
 - D must bring about the action consciously which result in battery: *McNairne v Duncanson*. In this case court held that P did not consent to blow struck by D when he had let go off the ball in AFL match
 - Knowledge of contact is not essential: *Murray v Ministry*
 - *Rixon v Star City Casino*: D placed hand on P shoulder to get his attention = no battery
 - iii) Consent
 - If P has consented to the act, then there is no battery: *McDonald v McMahon*
 - But consent must be given freely and without fraud or duress: *R v Williams*
 - Sports have implied consent unless it is outside the rules of the game: *McNairne v Duncanson*
 - Conduct part of everyday life is no battery: *Collins v Wilcock*
 - In medical emergency, it is permissible to give medical treatment without consent, "subject to knowledge of any refusal by patient": *Reper v Whistler*
 - In case of incompetent persons, guardian can give consent: *Consolidation v Administration Act 2000 (Vic)*
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Good Structure Torts Answer

David G. Owen



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as well as anyone seeking a better understanding of tort law *Tort Law Defences* James Goudkamp, 2013-07-31 The law of torts recognises many defences to liability While some of these defences have been explored in detail scant attention has been given to the theoretical foundations of defences generally In particular no serious attempt has been made to explain how defences relate to each other or to the torts to which they pertain The goal of this book is to reduce the size of this substantial gap in our understanding of tort law The principal way in which it attempts to do so is by developing a taxonomy of defences The book shows that much can be learned about a given defence from the way in which it is classified This book has been awarded Joint Second Prize for the 2014 Society of Legal Scholars Peter Birks Prize for Outstanding Legal Scholarship *Great Debates in Tort Law* Jonathan Morgan, 2022-11-17 Exploring the key discussions and arguments in tort law this book enables students to get a deeper and more rounded understanding of the subject Part of the Great Debates series it is an engaging introduction to the more advanced legal concepts such as negligent breach of duty and vicarious liability Each chapter is structured around questions and debates that provoke deeper thought It features summaries of the views of notable experts on key topics and each chapter ends with a list of further reading This book is ideal for use by ambitious students alongside a main course textbook encouraging them to think critically analyse the topic and gain new insights The development of these skills and the discursive nature of the series with an emphasis on contentious topics means the book is also useful for students when preparing their dissertations Suitable for use on courses at all levels this book helps students to excel in coursework and exams **Comparative Tort Law** Mauro Bussani, 2021-02-26 This revised second edition of *Comparative Tort Law Global Perspectives* offers an updated and enriched framework for analysing and understanding the current state of tort law around the world Using a critical comparative methodology it covers not only the common tort law issues but also many jurisdictions often overlooked in the mainstream literature Contributions explore illuminating case studies from tort systems in Europe the US Latin America Asia and sub Saharan Africa including new chapters specifically discussing tort law in Brazil India and Russia **Q&A Commercial Law 2013-2014** Jo Reddy, Howard Johnson, 2013-06-26 This book is intended to be of help to students studying commercial law who feel that they have acquired a body of knowledge but do not feel confident about using it effectively in exams This book sets out to demonstrate how to apply the knowledge to the question and how to structure the answer **Tort Theory** Kenneth D. Cooper-Stephenson, 1993 Philosophical Foundations of the Law of Torts John Oberdiek, 2014-03-20 Contemporary philosophy and tort law have long enjoyed a happy union Tort theory today is an exceptionally active and wide ranging field within legal philosophy This volume brings together established and emerging scholars from around the world and from varying disciplines that bring their distinct perspective to the philosophical problems of tort law These ground breaking essays advance longstanding debates and open up new avenues of enquiry thus deepening and broadening the field Contributions cover the major problematic areas of tort law such as the relations between responsibility fault and strict liability the morality of harm

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Tort Liability of Public Authorities in European Laws Giacinto della Cananea, Roberto Caranta, 2020-12-15 This series argues that there is a common administrative core to European legal systems that can be better understood in comparative terms This volume examines government liability in tort using case studies to explore different government responses Part I sets the stage for the project and the parameters followed by the scholars involved Part II expands on the legal systems chosen for comparison setting up their general tort procedures Part III presents case studies from Austria the European Union France Germany Hungary Italy Poland Romania Spain Switzerland and the United Kingdom Each case study has a theoretical response detailing what would happen should that case occur within each country's borders Part IV compares and contrasts the information provided in Part III It examines both the commonalities and the distinctive traits of these legal systems with a view to understand the nature of their common core This volume is an essential tool for anyone involved in administrative and constitutional law and government liability in tort

Law Express: Tort Law (Revision Guide) Emily Finch, Stefan Fafinski, 2014-08-01 The Law Express series is designed to help you revise effectively This book is your guide to understanding essential concepts remembering and applying key legislation and making your answers stand out

Toxic Torts Carl F. Cranor, 2016-06-02 US tort law cloaked behind increased judicial review of science is changing before our eyes yet we cannot see it While Supreme Court decisions have altered how courts review scientific testimony the complexity of both science and legal procedures mask the resulting social consequences Yet these consequences are too important to remain hidden Mistaken court reviews of scientific evidence can decrease citizen access to the law decrease incentives for firms to test their products lower deterrence for harmful products and decrease the possibility of justice for citizens injured by toxic substances Even if courts review evidence well increases in litigation costs and attorney screening of clients can impede access to the law Newly revised and expanded Toxic Torts 2nd edition introduces these issues reveals the relationships that can deny citizens just

restitution for harms suffered and shows how justice can be improved in toxic tort cases

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