

Summary of How Torts are Classified

Torts can be categorized based on the interest they are designed to protect:

1. **Rights to Freedom from Bodily or Mental Harm (Trespass to the Person):** Includes Assault, Battery, False Imprisonment, and sometimes Defamation and Negligence. These torts uphold the principle of bodily inviolability and individual liberty.
2. **Rights to Possession or Enjoyment of Land:** Includes Trespass to Land, Private Nuisance, Public Nuisance, and Negligence. This category protects the principles of personal privacy and security of the home.
3. **Rights in Relation to Goods (Chattels):** Includes Trespass to Goods, Conversion, Detinue, and Negligence.
4. **Right to Reputation:** Primarily covered by **Defamation**.
5. **Economic Interests:** Includes Deceit, Injurious Falsehood, Intentionally Procuring a Breach of Contract, Conspiracy, Intimidation, Passing-off, Fraud, and Negligence. The tort of deceit is grounded in the principle of **honesty**.

Comprehensive Tort Cheat Sheet

Category & Tort	Definition / Interest Protected	Key Identifying Facts / Situations to Look Out For (Elements)
I. Torts Against the Person	Protect the right to bodily inviolability, individual liberty , and freedom from bodily or mental harm. Actionable per se (damage is not required).	Requires a voluntary, direct act by the defendant.
Battery	Intentional or negligent act causing direct physical interference with the plaintiff's body without lawful justification.	Physical contact with the plaintiff's body or clothes. The interference must go beyond what is generally acceptable in ordinary life (e.g., accidental bumps are excluded). Hostile intent is not necessary . Can be committed even if the plaintiff is unaware (e.g., unconscious or asleep). Look for: Punching, spitting, cutting hair without consent, performing unnecessary dental work, or carrying an unconscious person.
Assault	Intentional or negligent act/threat directly placing	Direct threat of imminent harmful contact. The plaintiff must subjectively

Week 5 – Defences to intentional torts

I. Introduction to Defences and Burden of Proof

- The **legal burden of proving the facts necessary to constitute a defence** rests on the defendant, once the plaintiff has established an invasion of their interest.

II. Self-Help Based Defence: Necessity

The defence of necessity requires the defendant to satisfy four elements:

1. There was a **threat of imminent danger** to person or property.
2. There was a **reasonable necessity** for the defendant to act to preserve person or property.
3. The imminent danger was **not due to the defendant's negligence**.
4. The steps taken by the defendant were **reasonable and proportionate** to the danger to be avoided.

A. Imminent Danger

The threat may involve grave harm to:

1. The life of the plaintiff themselves (*Leigh v Gladstone*):

- **Factual Background:** Leigh, a prisoner, initiated a hunger strike to protest her imprisonment, explicitly refusing to eat. Prison authorities forcibly fed her to ensure her survival. Leigh sued the prison staff for assault and battery, arguing a violation of her right to autonomy and bodily integrity.

- **Legal Issue:** Whether the doctrine of necessity justified the state's intervention (forced feeding) against an individual's right to refuse medical care, even if that refusal leads to death.

- **Court's Reasoning and Decision:** The court upheld the defence of necessity, emphasizing the **state's paternalistic duty to preserve life**, particularly when individuals are under its authority and care. The judgement asserted that the rights to personal autonomy and bodily integrity, while paramount, are **not absolute** and can be superseded by the necessity to prevent a greater harm (death).

- **Significance:** This ruling is controversial, as overseas law often recognizes the right of a competent, sound-minded plaintiff to refuse medical care, even if it might lead to death. The case sets a precedent for forced medical treatment when justified by life preservation.

2. Human life more broadly (*Mouse's case*; *New South Wales v McMaster*):

- *Mouse's case:* The court held that damaging property (throwing cargo overboard from a ferry into the Thames) to preserve the lives of the passengers threatened by a storm was **sufficiently proportionate** and justified by necessity.

Tort Law Principles (General/Overlap)

Case Name (Year)	In-Depth Summary of Facts	Legal Issue & Decision	Key Principles
**Beals v Hayward **	The defendant was firing a rifle at a target when one pellet ricocheted and struck the plaintiff in the eye, causing serious injury.	Issue: Whether the defendant's acts constituted trespass to the person and what level of fault (intention or negligence) was required. Decision: The court found the firing of the rifle was a direct act, potentially constituting trespass. The jury found the act was not intentional, but liability can be established based on negligence.	Fault for intentional torts can be established if the act was reckless . Trespass to the person requires a direct act by the defendant and either intention to cause harm or negligence leading to harm.
Reynolds v Clark (1725/1726)	Describes the distinction: if a defendant throws a log onto the highway and it hits the plaintiff directly, it is trespass; if the plaintiff tumbles over the log as it lies there, it is an action on the case (indirect injury/negligence). The case itself involved the defendant's installation of a spout to discharge rainwater onto the plaintiff's land.	Issue: Whether an action of trespass <i>vi et armis</i> (direct force) or an action on the case (consequential damage) was the appropriate remedy. Decision: The court ruled that an action of trespass would not lie for the spout analogy; action on the case was the proper remedy.	Establishes the historical distinction between trespass (requiring direct injury) and action on the case (requiring indirect injury/negligence).
**Smith v Stone **	Stone (defendant) was physically carried onto Smith's land by force and violence of others , without his voluntary act.	Issue: Whether involuntary trespass is actionable. Decision: The court ruled in favour of Stone, finding that he	Trespass cannot be established where the act is brought about by the force of a third party ; the act must be voluntary.