

## Opening Assignment

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Franklin Pork constructed a hog processing facility next to the Cline's farm. The Cline's complained of a stench emitting from the facility that was so rank they couldn't go outside or open their doors or windows without becoming nauseated.

Should the Cline's be able to get money from Franklin Pork? Explain your answer.

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## Tort

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- **A crime is punished by the state**
  - **A tort is a private or civil wrong**
    - Injured person can collect money damages from the wrongdoer
    - To compensate for any injury sustained
  - **Types of Torts**
    - Intentional – On purpose
    - Negligent – On accident
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## Intentional Torts

## Assault

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- **Threat of harmful or offensive contact**
- **Apparent ability to carry out threat**



## Battery

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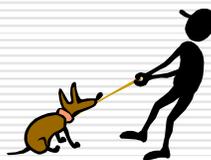
- Harmful or Offensive Physical Contact



## False Imprisonment

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- Deprive One of Freedom of Movement



## Intentional Infliction of Emotional Distress

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- Outrageous Conduct
- Physical Injury



## Invasion of Privacy

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- Expectation of Privacy
- Violation of that Expectation



## Defamation

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- False Statement
- Reckless Disregard
- Publication
- Harmful or Offensive



**Libel - Written Defamation**  
**Slander - Oral Defamation**

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## Public Figures

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- Defamation
  - Actual Malice required
  - Malice – intent to harm reputation
- Invasion of Privacy
  - Lesser Expectation of Privacy



## Fraud

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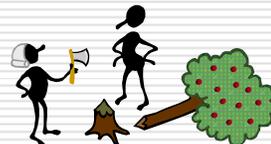
- Misrepresentation
- Reliance
- Financial Injury



## Trespass

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- Entry onto Real Property
  - Real Property is Land or anything permanently attached to land



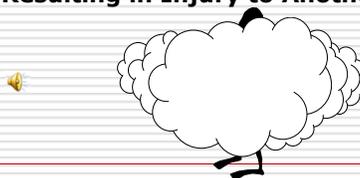
## Conversion

- **Exercise of control over Personal Property**
  - **Personal Property is movable**



## Nuisance

- **Use of Property**
  - **Usually indirect, like noise, vibrations, smells, etc.**
- **In Unreasonable or Unlawful Manner**
- **Resulting in Injury to Another**



ARLINGTON SEPTEMBER 23, 2015 11:16 AM

### Arlington business owner sues over school district ag center plans

**HIGHLIGHTS**  
 Arlington school district to build \$2.5 million center next year  
 Pantego Contractor seeking \$100,000-plus in damages and attorney fees  
 District picked site for underserved agriculture students



**Where to get your next car**



**VIDEOS**



ARLINGTON — Which comes first — the smell or the lawsuit?

If you're Phillip Weldon, you don't wait around for the Arlington school district to build a 46,000-square-foot agricultural science center next door to your business and stuff it with 200 head of livestock.

Last week Weldon filed for an injunction to halt the project, citing concerns about the "smells, trash, odors, noise conditions, flies and other annoyances" that he expects will follow the center to its planned site at 3210 W. Pioneer Parkway in Dalworthington Gardens.

The suit, filed in Judge R.H. Wallace Jr.'s 96th District Court, seeks damages including "monetary relief of over \$100,000," other relief and attorney fees.

## Defenses

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- **Applicable to all intentional torts**
  - **Consent – by agreement**
  - **Privilege – legal right**
  - **Justification – defense of self or others**



## Intentional Tort Case 1

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Betty was at a baseball game seated one row in front of Justin Bieber. When Justin stood up to cheer, he was pushed by the person beside him, lost his balance and fell over Betty and into her lap. She sued him for the torts of Assault and Battery. Who wins? Explain.

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## Intentional Tort Case 2

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Every morning on the way to work, Sharon rides an elevator up 14 floors. Sometimes, when it is crowded, she thinks the elevator operator stands too close to her and sometimes touches her in a way that she believes is inappropriate. Explain what Sharon should do?

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### Intentional Tort Case 3

Jackson was a lawyer representing several persons accused of tax evasion. All three were reputed mobsters. The local paper printed an editorial calling for the tightening of tax laws "to protect society against mobsters and shyster lawyers who would sell their souls to the devil for thirty pieces of silver." Was this statement a tort? Explain.

### Intentional Tort Case 4

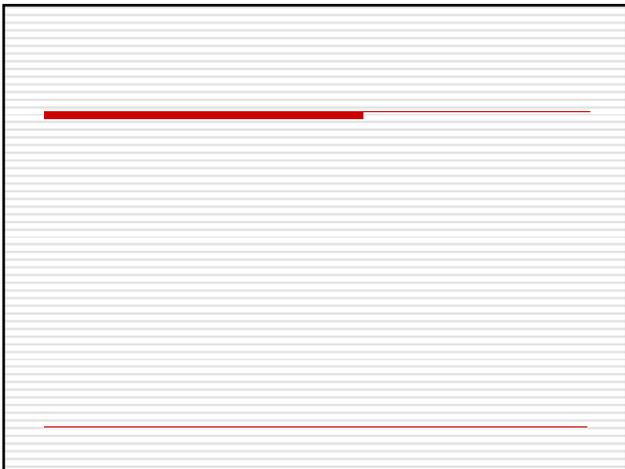
Lewis, went shopping in a Dayton Hudson department store. A security officer became suspicious that she was a shoplifter. Outside the fitting room there was a sign that read, "THIS AREA UNDER SURVEILLANCE BY HUDSON'S PERSONNEL." When she went into the fitting room, the security guard observed her from a grill in the ceiling and saw that she was carrying a concealed weapon. He called the police and she was briefly detained until it was determined that she was an undercover police officer. Does she have a cause of action against the store? Explain.

### Intentional Tort Case 5

Yardly and Whiple, ages 14 and 16, stood in the street and threw rocks at an old warehouse, smashing 57 windows in the building and all of the windows of an old delivery truck in front of the building. The owner of the warehouse sued them and their parents for damages. Who, if anyone is liable and for what? Explain.

### Assignment

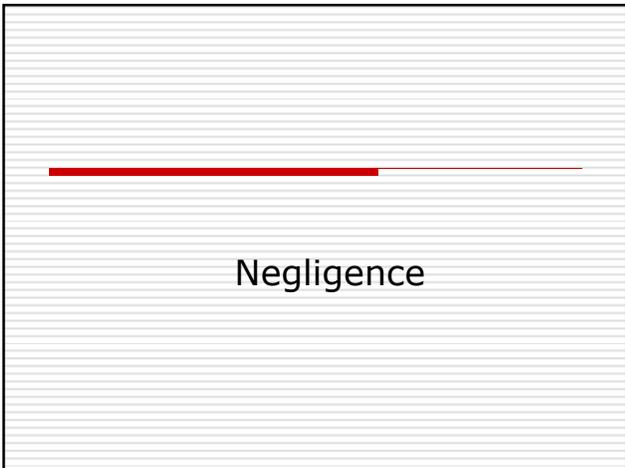
Tort Story...



### Opening Assignment

**Jake Farmer is walking on a sidewalk near a construction site where workers of Acme Construction have been bricking a building. All the workers have gone to lunch, but as Jake walks by, a hundred pound bag of masonry cement falls on him from a ledge on the building, injuring his neck, shoulder, back, and pinkie toe.**

**Should Jake recover money for his injuries? Explain your answer.**



Negligence

### NEGLIGENCE

- Duty
- Breach
- Causation
- Damages

## Duty

- Definition:
  - responsibility to act in a certain way
- Standard:
  - Reasonable Care
    - What would a reasonable person do under the same circumstances

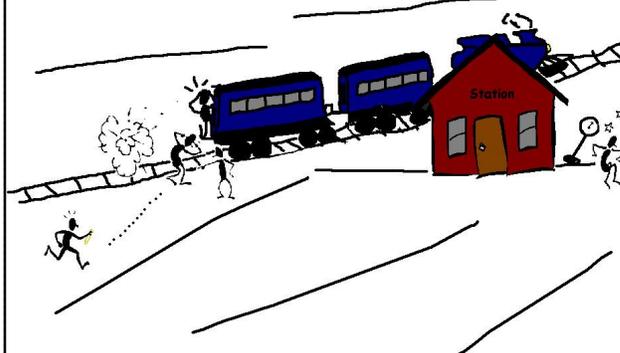
## Breach

- Failure to exercise reasonable care

## Causation

- Breach of duty resulted in injury

## Palsgraff v. Long Island R.R.



## Causation

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- Actual Cause
    - The injuries happened as a direct result of the breach
  - Proximate Cause (Legal Cause)
    - The injuries were a reasonably foreseeable result of the breach
    - A cause that breaks the chain of causation can be an intervening (or superseding) cause
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## Vicarious Liability

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- Definition: transfer of liability; one person liable for the torts of another
  - Examples:
    - Parent/Child
    - Employer/Employee
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Jackson's was having its annual sale, starting Saturday morning at 9:00am. By nine the crowd was getting restless and loud. At 9:10 the doors were opened and the shoving and pushing started. A sudden surge from behind pushed Joanna Largesse against a large plate glass window; the window shattered, and Joanna was badly cut on the wrist and upper arm.

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Some of the fans were booing, others screaming in delight. Jungle Jim, the 300-pound wrestling champ out of Chicago, had just thrown "Big Boy" Roberts through the ropes and out of the ring right into the lap of Parnell Jones: "It was like being hit with a ton of bricks." He suffered broken ribs and a sprained back.

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Ann Simco was about to enter the highway. She saw a truck, driven by Jerry Foreman, approaching but thought she could get on the highway safely. She started to turn and was smacked by Foreman's truck. Foreman was driving five miles per hour over the speed limit and could have slowed down, but he didn't see her pull out in front of him.

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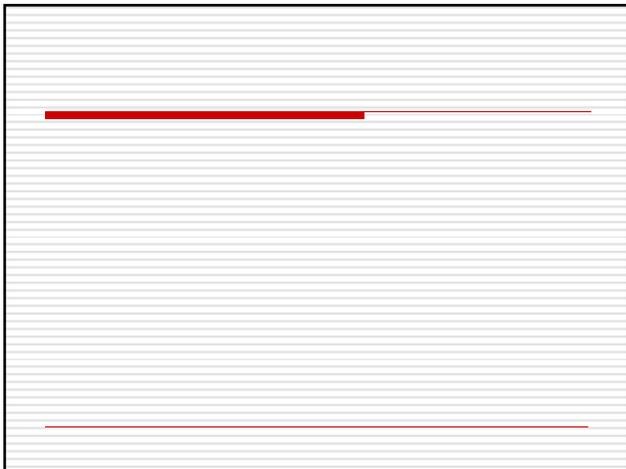
A railroad tank car owned by the Indiana-Ohio Railroad derailed in a neighborhood. Gasoline from a tank car ran into the street. Bill thought he would have a little fun, so he lit a match to the gasoline. The gasoline exploded into a huge blaze and Betty was severely burned.

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John invited a group of people to his home for a party. John's house had been thoroughly cleaned, and the hardwood floors were freshly waxed. When the guests started to arrive, Cindy slipped on a small scatter rug in the foyer. She suffered injuries to her neck and back.

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## Opening Assignment

Coca-Cola Case

## NEGLIGENCE

- Duty
- Breach
- Causation
- Injury

## Product Liability

- No proof of duty/breach required
  - Defective products
  - Unreasonably dangerous products

## Strict Liability

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- No proof of duty/breach required
    - Engaging in abnormally dangerous activities
    - Ownership of dangerous animals
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## Case 1

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Mike was checking into the Welcome Inn motel. The owner of the motel kept a German Shepherd dog on the premises for security purposes. Mike bent over to pet the dog, and it bit him. The dog had never bitten anyone before and was on a leash. Dawn, the motel owner had once said to another person, "King is usually friendly, but one never knows when a dog will turn on someone."

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## Defenses to Negligence

## Comparative Negligence

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- Definition: fault allocated among responsible parties by percentage
  - If less than 50% responsible, plaintiff can still recover
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## Case 2

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Rod and Jim were hunting quail. Both men fired their shotguns at the same time, and one shot hit Louis in the eye. Louis sued both Rod and Jim for negligence.

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## Assumption of Risk

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- Definition: plaintiff was aware of danger, but chose to accept risk of injury
  - Totally bars recovery by plaintiff
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## Case 3

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Chloe was a guest in Lane's home. While leaving the house, Chloe slipped on some ice on the front sidewalk. Lane had cautioned Chloe that the walk sometimes became slippery, and she admitted to seeing the ice. Would Lane be liable for negligence? Explain.

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## Opening Assignment

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**If you were to lose an arm in an accident caused by another person, how much money would you want for it?**

**Give a specific amount. How did you arrive at that figure? Explain your answer.**

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## Damages

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## Damages

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- Definition
    - monetary compensation which the law awards to one who has been injured by the action of another
  - Actual Damages
    - Money awarded for what the person actually lost
  - Punitive Damages
    - Money awarded as punishment for malicious or willful acts
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## Actual Damages

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- Medical Bills
  - Lost Wages
  - Pain & Suffering
  - Mental Anguish
  - Loss of Use
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## Punitive Damages

- Amount varies depending upon who the defendant is
  - How much should they be made to pay?
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## Case Question

Answer on the website form:

Decide what damages should be awarded to a 30-yr-old plumber who makes \$42,000/year and sustained a head injury in a car accident that resulted in post-concussion symptoms for 6 months with permanent blurred vision that is correctable with specialized lenses that cost \$2,000. Come up with a number and explain how you arrived at it.

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