

# ADMINISTRATION OF JUSTICE

## TORTS: DUTIES TO OTHERS

### EXAM STUDY GUIDE

1. A tort is any unreasonable action that hurts someone or does damage to a person's property.
2. Under tort law, we have a duty to act reasonably at all times in order to ensure the safety of other people and their property.
3. Everyone has a responsibility to others that involves: not intentionally causing injury to a person; not causing damage to a person's property; not acting in a careless or negligent way that causes injury or damage.
4. Some people have special duties. A doctor, for example, has the duty to perform certain tests when a patient comes in for a checkup.
5. The manufacturer of a product has a duty to ensure that the product is safe.
6. A store owner has a duty to keep the floor clean so shoppers won't slip and fall.
7. People who don't exercise reasonable care may be liable, or legally responsible for injury caused to others.
8. We have the right to go about our daily lives without fear of being injured by someone else.
9. If we are injured because of someone's unreasonable, wrongful actions, tort law gives us the right to be compensated. Compensation is payment for an injury or a loss.
10. The earliest tort laws came from medieval English common law.
11. Offering a legal procedure for settling disputes, these tort laws kept citizens from "taking the law into their own hands,"
12. An intentional tort is a wrong done to another person on purpose.
13. For an intentional tort to take place, the following elements must be present: The defendant commits a certain act. The defendant means to commit that act. The defendant's act causes injury to the plaintiff.
14. John injures a neighbor by moving a chair the neighbor was about to sit in causing the neighbor to fall to the floor. John's action was intentional (that is, he did it on purpose); John's action caused the injury to his neighbor. John's action clearly fits the definition of an intentional tort.
15. In the law of torts, to do something intentionally means to do it voluntarily. The reason, or motive, for the action doesn't matter. What matters is that something was done and that it wasn't an accident.
16. Some criminal acts also violate civil laws.
17. The intentional tort of false imprisonment means keeping someone in a confined space against his or her will.
18. A farmer locks his worker in her barn to teach him a lesson. This would be false imprisonment.
19. Intentional infliction of emotional distress is another common intentional tort. Bob tells a joke and the joke was responsible for a friend's heart attack, a court could hold Bob liable for medical care.
20. To make sure that the courts aren't cluttered with cases of hurt feelings, the law strictly limits the definition of emotional distress.
21. The action must be outrageous, and the damage must be extreme distress.
22. Just because someone is rude to you or insults you does not mean you can take that person to court.
23. An intentional tort may harm property or cause economic damage. These torts include trespassing on someone's property and taking, keeping, or destroying property that belongs to someone else.
24. Invasion of privacy is another tort that may cause emotional injury or economic damage. *These intrusions may include;* spying, eavesdropping, electronic monitoring, reading someone's mail or diary, and going through someone's wallet without permission.
25. The most common defense to an intentional tort is consent, or permission.
26. Consent is a valid defense only if it is given freely.
29. *Legal defenses to intentional torts include:* self-defense, defense of others, defense of property.
30. Because property is considered less valuable than human life, the right to protect it is quite limited.
31. When law enforcement officers follow proper criminal procedures, their actions are not considered torts.

32. Parents have the right to use reasonable physical force to discipline their children.
33. "I made a mistake." Error, no matter how innocent, is never a defense.
34. Negligence is the failure to act with reasonable standards of care for the safety of others.
35. In reviewing a negligence case a court would have to ask four questions: Did the defendant have a duty in this case? Did the defendant breach, or fail to do, his duty? Did the defendant cause the harm? Did the plaintiff suffer damages?
36. In order to decide whether someone failed to do a duty, a court asks what a reasonable person would have done under the circumstances.
37. Under tort law, a "reasonable person" is one who takes care not to injure others and acts sensibly.
38. A reasonable person isn't the same as an ordinary person or an average person.
39. Once the court has determined that a person is negligent, the court must decide two things: Did the defendant cause the harm? Whether the plaintiff suffered damages.
40. The courts have found that it is unfair to expect small children to behave like reasonable adults.
41. Courts use a slightly different standard when children are involved.
42. Courts look at what a reasonable person of similar age, experience, and maturity would have done.
43. A jury might find a child's parents negligent in not properly supervising a child.
44. If the child is engaged in an adult activity, such as driving a car the child is held to adult standards.
45. Some people are expected to know more than the reasonable person.
46. All professionals, such as doctors, nurses, lawyers, and police, are held to higher levels of what is reasonable.

#### DEFENSES TO NEGLIGENCE TORTS

47. If the defendant can show that his or her actions were reasonable or necessary, that defendant may not be held liable.
48. Defendants often try to show that any reasonable person would have done what the defendant did.
49. Another common defense is to show that both the plaintiff and the defendant were at fault.

#### OTHER TYPES OF LIABILITY

50. Strict liability is the liability for dangerous actions that involve no negligence or bad intent. Sometimes called liability without fault.
51. Keeping dangerous animals is one common activity for which people may be held strictly liable.
52. Products liability is another area of tort law. It protects consumers from being injured by defects in the products they buy..
53. When manufacturers make a defective product, even if they don't know the product is defective they are liable for any injuries caused by using the product.
54. Manufacturers cannot be held liable for a product that has been altered or misused by the consumer.
55. The law requires that products be able to withstand any "reasonably expected" use, even if it's not the use that the product was made for.
56. Defamation means telling lies that hurt someone's interests or reputation. The lies may be spoken (slander) or written (libel).
57. Someone else must hear or read the statement in order for a statement to be considered defamation.
58. A statement is considered defamation only if it is clear who is being named in the statement.
59. Defamation can come in the form of words, actions, or even pictures.
60. Another defense is called privilege, or protection from legal liability.
61. Political commentators are free to state their opinions about public affairs.