

# Law School Case Briefs

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## Contents

<b>Brown v. Kendall</b>	<b>3</b>
<b>Cohen v. Petty</b>	<b>4</b>
<b>Garratt v. Dailey</b>	<b>5</b>
<b>Hawkins v. McGee</b>	<b>6</b>
<b>McGuire v. Almy</b>	<b>8</b>
<b>Ranson v. Kitner</b>	<b>9</b>
<b>Spano v. Perini Corp</b>	<b>10</b>
<b>Talmage v. Smith</b>	<b>11</b>
<b>Wagner v. State</b>	<b>12</b>
<b>Index</b>	<b>13</b>

# Brown v. Kendall

60 Mass. (6 Cush.) 292 (1850)

## Course

Torts

## Keyword Subject

Negligence, Trespass (common law)

## Facts

The plaintiff and defendant's dogs were fighting and, in order to break up the fight, the defendant picked up a stick to hit the dogs to separate them. While raising the stick, the defendant struck the plaintiff, who was standing behind him, in the eye.

The defendant was acting lawfully, and there was no indication of unlawful intent

## Procedural History

Jury Trial: In favor of Plaintiff

Appeal: In favor of Defendant (New Trial Ordered)

## Issue

Does the defendant hold the burden of proof when an unintended consequence results from a lawful act without unlawful intentions?

## Holding: No; New Trial Ordered

## Principle

The plaintiff holds the burden of proving that a defendant acted either unlawfully or carelessly

## Reasoning

If an act is lawful and a purely accidental injury arises, the actor cannot be held liable

## Separate Opinions

## Notes

# Cohen v. Petty

62 App.D.C. 187, 65 F.2d 820 (1933)

## Course

Torts

## Keyword Subject

Negligence, Car, Reasonable Care

## Facts

The plaintiff was riding in a car driven by the defendant, when the defendant was suddenly stricken by an illness that resulted in them passing out behind the wheel.

The defendant testified that he knew himself to be in good help and had never fainted before.

The defendant wasn't driving recklessly and he did not feel ill until moments before he passed out.

## Procedural History

Trial Court: In favor of Defendant

Appeal: In favor of Defendant

## Issue

Can a defendant struck with a sudden and unexpected illness that results in damages to a plaintiff be held liable?

## Holding: No; Previous Ruling Affirmed

## Principle

Unexpected and accidental "acts of god" cannot be used to hold someone liable for negligence

## Reasoning

There was no evidence presented that would indicate that any reasonable level of care could have prevented the events from happening, therefore it is unreasonable to hold the defendant liable for negligence

## Separate Opinions

## Notes

# Garratt v. Dailey

46 Wash.2d 197, 279 P.2d 1091 (1955)

## Course

Torts

## Keyword Subject

Battery, Minor, Intent

## Facts

The defendant (a 5 year old named Brian Dailey) was visiting the plaintiff Naomi Garratt (an adult) and the plaintiff's sister (Ruth Garratt) in the back yard of the plaintiff's home.

The plaintiff contends that the defendant deliberately pulled a lawn chair out from under her when she went to sit down. However, the trial court accepted the defendant's explanation that he had pulled the chair for himself to sit in and then, once he realized that the plaintiff was about to sit where the chair used to be, tried to push the chair back under the plaintiff. Unfortunately, the chair was too unwieldy for the defendant to properly move so the plaintiff fell and broke her hip.

## Procedural History

Trial Court: In favor of Plaintiff (Damages set at \$11,000)

Appeal: In favor of Defendant (Remanded for clarification)

Trial Court: In favor of Plaintiff (Damages reset at \$11,000)

## Issue

Can a defendant be held liable for battery in the absence of intent if the defendant does not have the knowledge that their action could or would lead to the injury?

## Holding: No; Remanded for clarification

## Principle

A person cannot be held liable for a tort if they do not have the knowledge that their actions could or would lead to an injury.

## Reasoning

## Separate Opinions

## Notes

When the Defendant moved the chair in question, he did not have any wilful or unlawful purpose in doing so and did not intend to injure the plaintiff

# Hawkins v. McGee

84 N.H. 114, 146 A. 641 (N.H. 1929)

## Course

Contracts

## Keyword Subject

Assumpsit, Negligence, Offer, Warranty

## Facts

A young man suffered an electrical burn on his hand that left him with scar tissue on his hand. He is solicited by a doctor who offers to perform a skin graft from his chest to his hand. He claimed that the man would recover from the surgery in 3-4 days and would be left with a "perfect hand".

The surgery was botched by the surgeon and resulted in an infection and hair grew from his hand.

The man's usage of the hand was impacted and he sued for breach of contract.

## Procedural History

Trial Court (Jury Verdict): In favor of the Plaintiff (\$3,000)

Trial Court (Directed Verdict): Remit the damages in excess of (\$500)

Appeal: In favor of the Plaintiff [New trial ordered]

Settlement: (\$1,300)

## Issue

Does the defendant's promise to give the plaintiff a "perfect hand" constitute a warranty for the surgery?

Is this impacted by the fact the doctor solicited the patient for the surgery?

## Holding: Yes; New trial ordered

## Principle

The verbal warranty provided by the doctor entitled the patient to expectancy damages

## Reasoning

The previous instructions provided to the jury failed in both its points: - The pain and suffering felt by the patient were irrelevant because they would have been experienced regardless of the results of the surgery -

The warranty provided by the doctor entitles the patient to more than just restitution damages

## Separate Opinions

### Notes

The writ (the lawsuit) included a count of negligence, and assumpsit.

Negligence - Malpractice (struck because the surgery was known to be experimental)

Assumpsit -

# McGuire v. Almy

297 Mass. 323, 8 N.E.2d 760. (1937)

## Course

Torts

## Keyword Subject

Battery, Intent

## Facts

The plaintiff was employed to take care of the defendant as a registered nurse. The plaintiff was on "24 hour duty" watching the defendant. One day, the plaintiff heard commotion coming from the defendant's room and found that she had broken her furniture and was threatening anyone who would come into the room with the leg of a table. When the plaintiff entered the room to disarm the defendant and remove the debris, the defendant struck her in the head.

## Procedural History

## Issue

Can a person who is considered clinically insane be held liable for torts?

## Holding: Yes; Judgement for the plaintiff

## Principle

In so far as a particular intent would be liable to hold a normal person liable, an insane person, in order to be liable, must have been capable of entertaining the same intent as well as, in fact, entertaining it.

## Reasoning

The intent of the defendant is crucial in determining liability of a tort, and therefore for a mentally ill defendant the question should be whether they have the capability to have intent as well as whether they actually have the intent.

## Separate Opinions

## Notes

At the time, it was a case without precedent as to whether a mentally ill person could be held liable for torts.



# Ranson v. Kitner

31 Ill.App. 241. (1889)

## Course

Torts

## Keyword Subject

Mistake

## Facts

The defendant was hunting for wolves and saw plaintiff's dog. The dog resembled a wolf and the defendant killed it as such.

## Procedural History

Trial Court: In favor of Plaintiff

Appeal: In favor of Plaintiff

## Issue

Is the defendant liable for damages caused by a mistake that was made in good faith?

## Holding: Yes; Judgment Affirmed

## Principle

A defendant holds liability for damage that results from a mistake

## Reasoning

The judge intentionally uses the term "mistake" to indicate that the damages, though made in good faith, were intentional and therefore there is liability

## Separate Opinions

## Notes

# Spano v. Perini Corp

304 N.Y.S.2d 15 (1969)

## Course

Torts

## Keyword Subject

Negligence, Property Damage

## Facts

The plaintiff Spano owned a garage in Brooklyn which was wrecked by a blast of dynamite set off by Perini Corp.

The blast (totaling 194 sticks of dynamite) was set off in a construction site 125 feet from the garage and though it did not result in debris that wrecked plaintiff's garage, the shockwave of the explosion did shake his garage to the ground.

## Procedural History

Trial Court: In favor of Defendant

Appeals: In favor of Plaintiff

## Issue

Can someone be held liable for damages caused by blasting that were not the direct result of "physical trespass" or negligence?

## Holding: Yes; New Trial

## Principle

A blaster holds strict liability for damages resulting from blasting, regardless of whether there was physical trespass or negligence

## Reasoning

It's unreasonable to conclude that a company doing dynamite blasting is not liable for damages to adjoining properties unless there is visible, physical debris that entered the property. Such a rule is scientifically unmoored because a blast-wave from an explosion has just as much ability to cause injury. Further, proving negligence is unnecessary as if a shockwave from a construction yard explosion damages nearby property, the blasting was definitionally negligent.

## Separate Opinions

## Notes

# Talmage v. Smith

101 Mich. 370, 59 N.W. 656. (1894)

## Course

Torts

## Keyword Subject

Trespass (common law), Intent

## Facts

The defendant (Charles Smith) had on his property multiple sheds. One day he came out and saw a number of boys on top of his sheds and ordered them to get down. After they had, he discovered two more boys on the roof of another one of his sheds, though he claims he only saw one of them.

The defendant picked up a stick and threw it at one of the boys. The stick missed and hit the plaintiff in the eye, resulting in the plaintiff being blinded.

## Procedural History

Trial Court: In favor of plaintiff

Appeal: In favor of plaintiff

## Issue

Was the intent of the defendant to hit somebody with the stick, and was that excessive force given the facts?

## Holding: Yes; Judgment Affirmed

## Principle

The fact that an injury from a tort resulted to someone other than the intended target does not relieve the defendant of liability

## Reasoning

## Separate Opinions

## Notes

# Wagner v. State

2005 UT 54, 122 P.3d 599 (2005)

## Course

Torts

## Keyword Subject

Negligence, Battery

## Facts

The plaintiff (Mrs. Wagner) was standing in line at K-Mart when Mr. Giese, a mentally disabled man who was on a supervised visit to the store as part of his treatment, grabbed her by the head and threw her to the ground.

## Procedural History

Trial Court: In favor of Defendant

Appeals: In favor of Defendant

## Issue

Does battery require that the defendant intended to harm or offensively contact (dual intent) beyond simply intent to make contact (single intent)?

## Holding: No; Previous Ruling Affirmed

## Principle

A defendant does not need to intend an action to be harmful in order to be found liable for battery; instead simply requiring an intent to touch the plaintiff

## Reasoning

The defendant would not be capable of having an intention of harming the plaintiff, yet the simple act of intending to come into contact with the defendant results in liability

## Separate Opinions

## Notes

## Index

Assumpsit, 6

Battery, 5, 8, 12

Car, 4

Contracts, 6

Intent, 5, 8, 11

Minor, 5

Mistake, 9

Negligence, 3, 4, 6, 10, 12

Offer, 6

Property Damage, 10

Reasonable Care, 4

Torts, 3–5, 8–12

Tresspass (common law), 3, 11

Warranty, 6