

Products Liability

&

Intentional Torts

One-on-one Midterm Review Meetings

WHO WET MY PANTS?



WRITTEN BY BOB SHEA // ILLUSTRATED BY ZACHARIAH OHORA

In-Class Performance

Rueben the bear → Alex

Raccoon → Hannah

Turtle → Jack

Bigfoot → Cooper

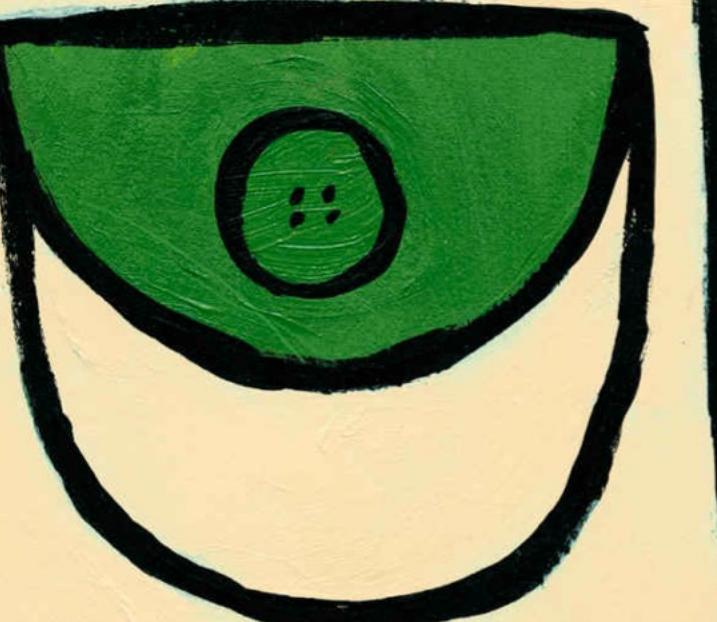
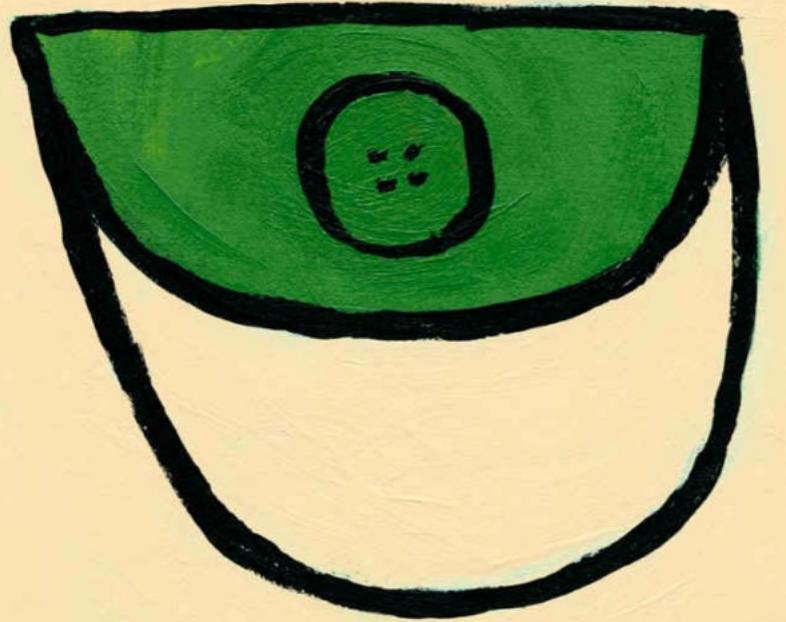
Dog → Amarachi

Come and get 'em!
I got all your favorites.

Chocolate frosted for Jared
and Julia, pink for Oskar,
rainbow sprinkles for Linzie,
gross maple-bacon for Tim
and Teddy, Boston cream
for Kelly...

and blueberry crunch in a
separate bag for Bigfoot,
who thinks it's weird when
donuts touch.





Ahem.





WHO WET MY PANTS?



Somebody better come clean
about my wet pants.

Oh, sure, it's all chipper,
cheery Chattytown when
I bring donuts, but when
someone wets my pants,
everybody clams up.



I'll get to the bottom of my wet pants
if it's the last thing I do!

Hey, Tim. Bet you picked up some pretty great
tricks before you ran away from the circus.
What was the Big Top Showstopper? Was it...



WETTING MY PANTS?



Tim didn't wet your pants, Reuben. It was probably just an accident.



You seem to know an awful lot about
who-wet-what-when vis-à-vis my pants.
Well, Mr. All-the-Answers, here's one
simple question....

DID YOU WET MY PANTS?



Gosh, I used to wet
my pants all the time.
We all understand.

Oh, really? All the time,
you say? Wet pants are
old hat, are they?

You know something, Bigfoot?
I'm not even sure I believe in you.
If I did, I'd have one thing to say.

**DID YOU
WET MY
PANTS?**



Don't worry about it, Reuben. It could happen to anyone.

But it didn't happen to anyone! It happened to me! All I want is JUSTICE! Justice and dry pants.



You know what's worse than the damp, uncomfortable feeling? My so-called friends trying to cover it up.

Well, guess what? I blame all of you. That's right....



YOU ALL WET MY PANTS!



Look, here's all I know.



This morning I helped out at the lemonade stand.



Then I went for a hike to the waterfall.



Later I fell asleep playing with my tropical fish.



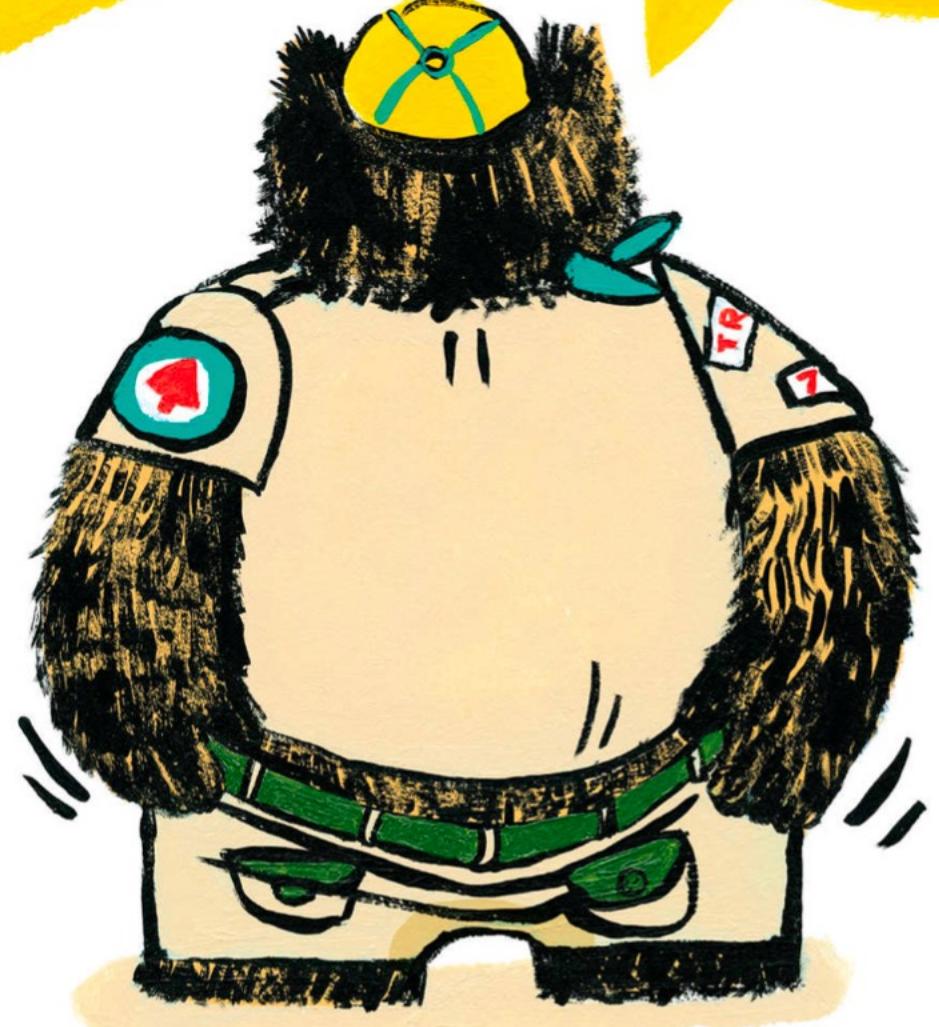
When I woke up, I got donuts and came straight here.



Then...POOF!
My dry pants are wet.
Pants that have never
been out of my sight...
pants I have been wearing
the WHOLE TIME.



THESE PANTS ARE
BROKEN!



They sprung a leak.



Ugh! Thanks for nothing, leaky
broken pants! Making me blame
all my super great friends.



BUT if one of
you guys DID
wet my pants...





What products liability claims might Reuben the bear try to assert against the manufacturer of his pants?

- Manufacturing defect
- Design defect
- Failure to warn

We all know that Reuben should lose his case,
but on what legal grounds?

- Manufacturing defect
- Design defect
- Failure to warn

Warnings and Instructions

Hood v. Ryobi American Corp.

“Removing Bladeguards from an Electric Saw, What Could Go Wrong?”

Couple nuances

“Heeding Presumption”

Warnings can't overcome design defects

How can you defend against a strict liability or products liability claim?

Argue that plaintiff has not made out a prima facie case

Strict Liability

- Strict liability applies
- Causation
- Harm

Products Liability

- Defect
- Causation
- Harm

Speller v. Sears, Roebuck & Co.

“Refrigerator Fire”

Affirmative Defenses

Comparative Negligence

Assumption of Risk

NOTE: Contributory negligence is NOT a defense to strict liability or products liability, only comparative negligence.

Jones v. Ryobi, Ltd.

“The Modified Printing Press”

Anderson v. Nissei ASB Machine Co.

“The Bottle-Making Machine that Amputated an Arm”

General Rule: Manufacturer can only be held liable for defects that existed when the product was sold.

Missouri: When a third party's modification makes a safe product unsafe, the manufacturer is relieved of liability even if the modification is foreseeable.

Arizona (and CA): Only an unforeseeable modification of a product bars recovery from the manufacturer.

Intentional Torts

Culpability

Strict Liability

Negligence

Intentional Torts

Structure for this Part of the Course

Intentional Torts:

- Battery
- Assault
- False imprisonment
- Intentional infliction of emotional distress

Defenses:

- Consent
- Self-defense
- Defense of property
- Necessity

Garratt v. Dailey

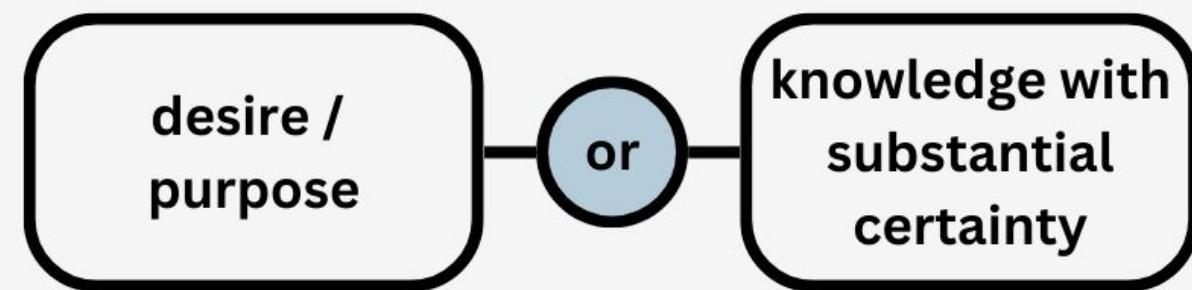
“The Five-Year-Old Who Pulled the Chair Out from Under Her”

Abridged Definition from Restatement (Third) of Torts

A person acts with the intent to produce a consequence if:

- (a) the person acts with the purpose of producing that consequence;
or
- (b) the person acts knowing that the consequence is substantially certain to result.

Intent



Alcorn v. Mitchell

“The Angry Spitter”

Picard v. Barry Pontiac-Buick, Inc.

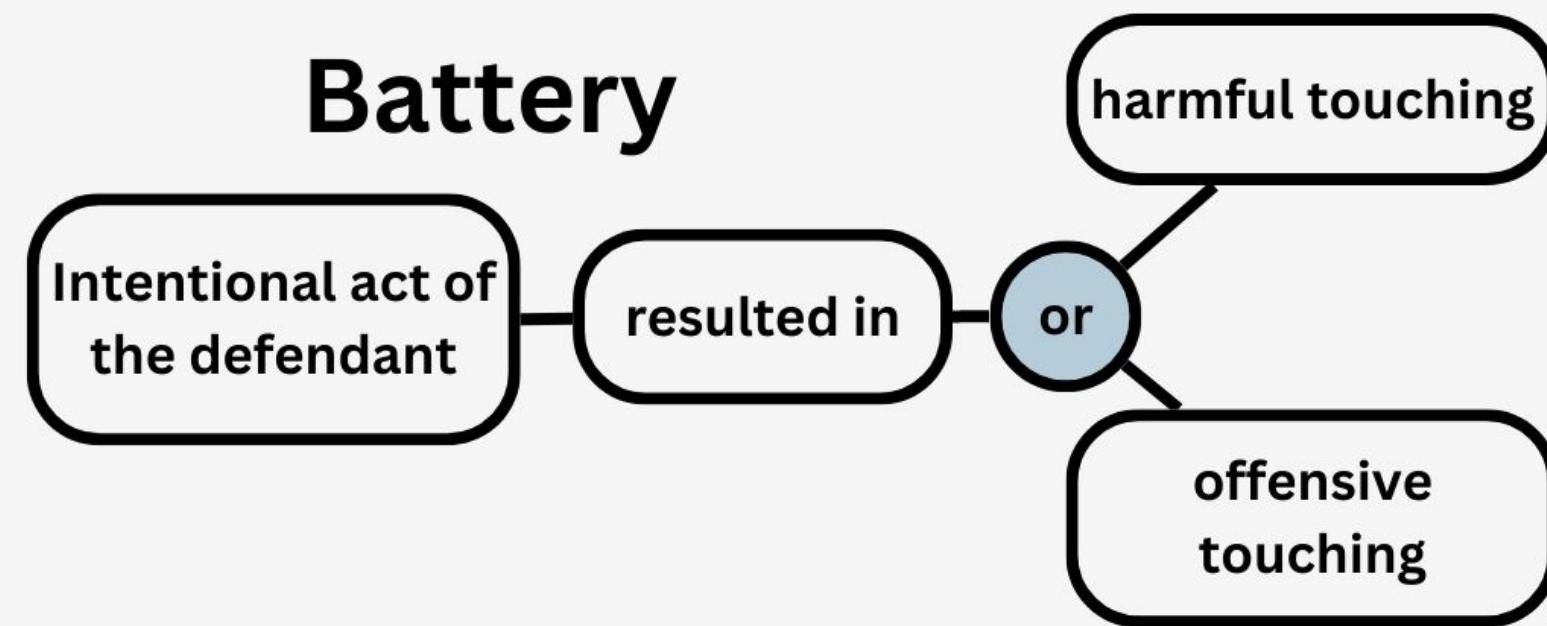
“The Camera Toucher”

Battery

Abridged Definition from Restatement (Second) of Torts

An actor is subject to liability to another for battery if he acts intending to cause a harmful or offensive contact with the person of the other or a third person, or an imminent apprehension of such a contact, and a harmful or offensive contact with the person of the other directly or indirectly results.

Battery



Assault

Abridged Definition from Restatement (Second) of Torts

An actor is subject to liability to another for assault if

- (a) he acts intending to cause a harmful or offensive contact with the person of the other or a third person, or an imminent apprehension of such a contact, and
- (b) the other is thereby put in such imminent apprehension.

Assault

Intentional act of
the defendant

to inflict upon plaintiff

to put plaintiff in
reasonable fear or
apprehension of

or

imminent

harmful touching

or

offensive
touching

Wishnatsky v. Huey

“The Offended Interrupter”

With intentional torts, always consider

1. The legal interest that each intentional tort addresses
2. The requirements of the defendant
3. The requirements of the plaintiff
4. Any objective requirements, including analysis that the judge or jury must conduct

The legal interest that each intentional tort addresses

Battery

Freedom from harmful or offensive contact

Assault

Freedom from apprehension of harmful or offensive contact

False Imprisonment

Freedom from confinement

IIED

Freedom from severe emotional distress

