

# 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

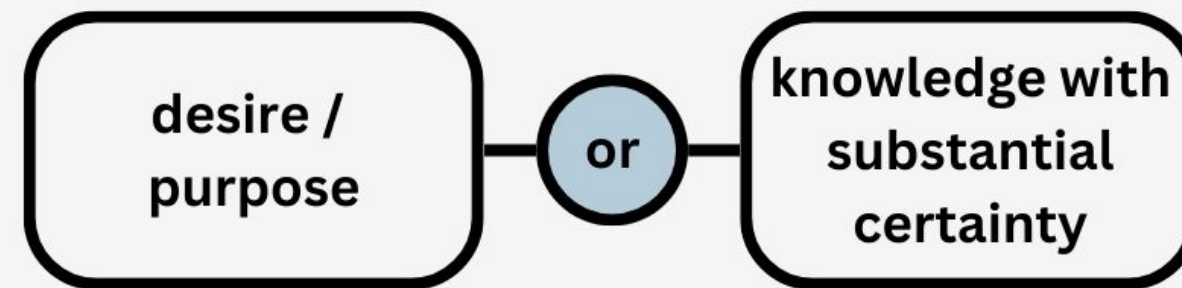
“The Five-Year-Old Who Pulled the Chair Out from Under Her”

## **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.

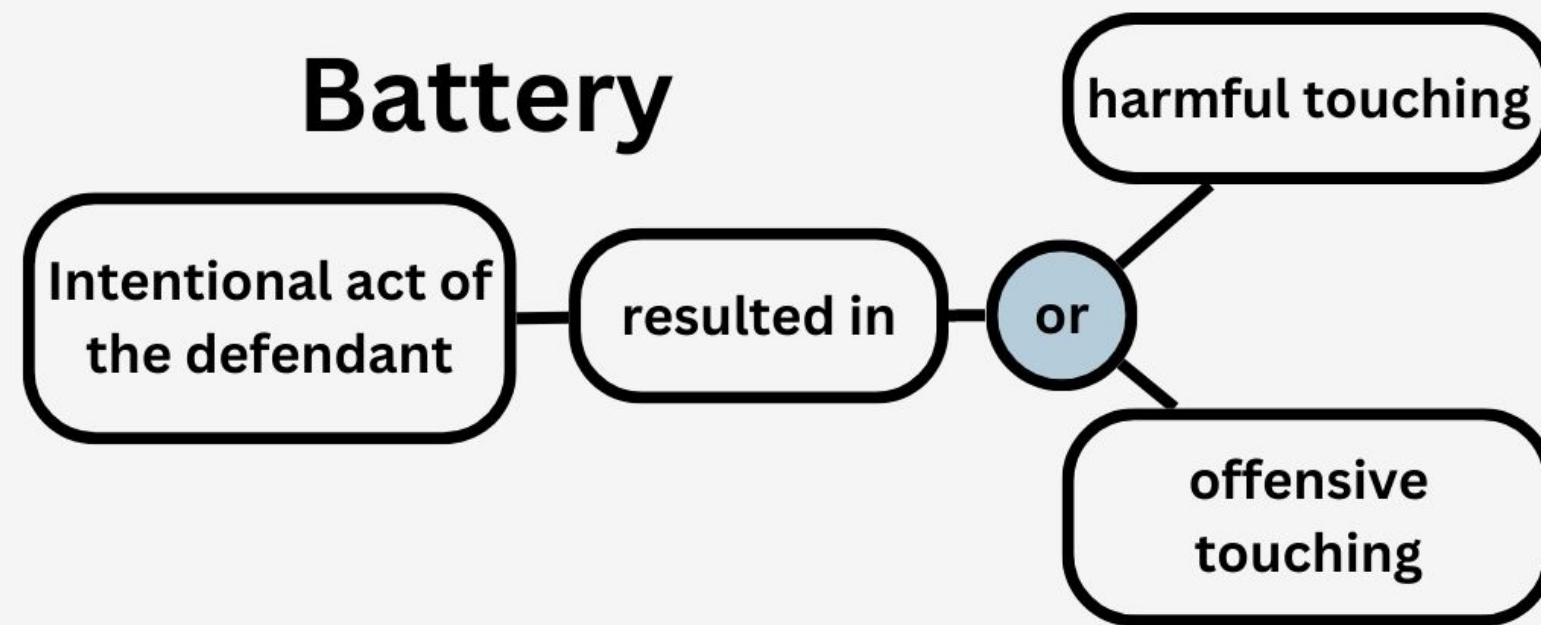
“The Camera Toucher”



# 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.

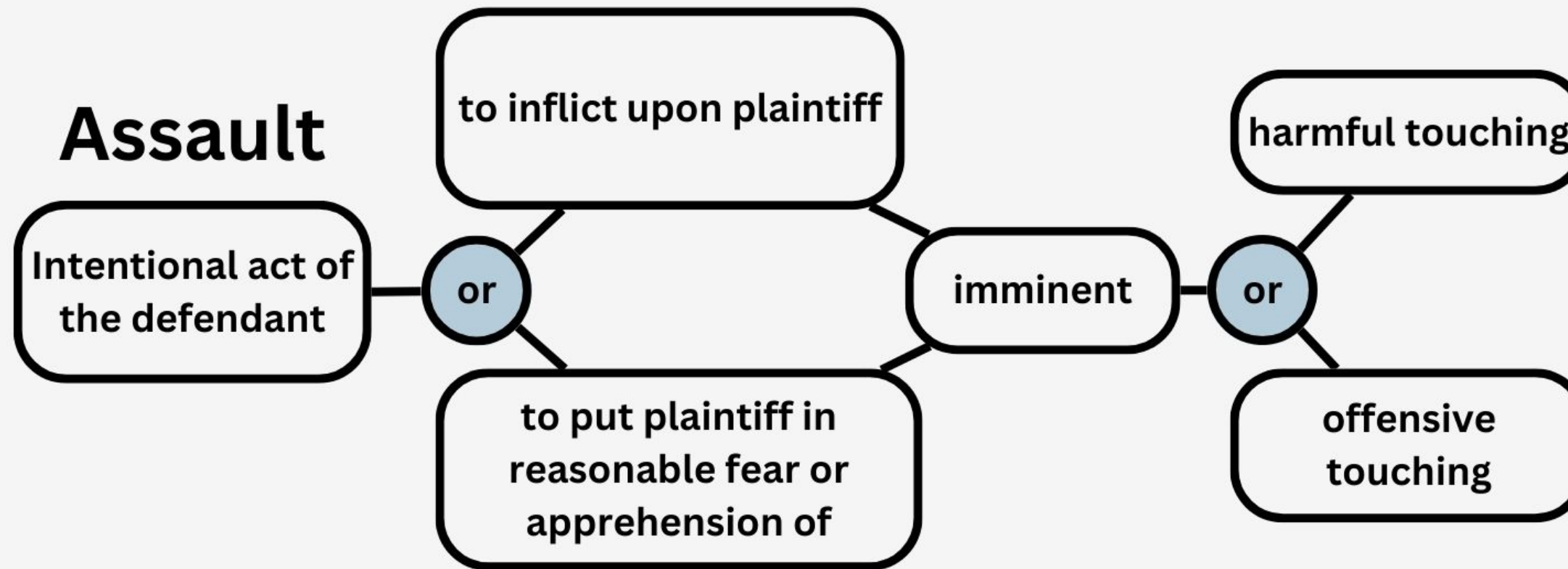


# Assault

## **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.



# 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

You are a junior associate at a plaintiff-side firm. The potential plaintiff, a nine-year-old boy named Augustus Gloop, choked on a hot dog during lunch in his elementary school cafeteria. The child survived but suffered serious injuries. His family is now interested in suing Oscar Meyer Weiner, the company that produced this hot dog. Oscar Meyer Weiner does not have any warning labels on its packaging.

A partner at your firm would like you to sketch out arguments supporting a failure to warn claim, a design defect claim, and a manufacturing defect claim. For each claim, provide an example of a piece of evidence that would help our client win. And let her know which claims have the best and worst chances of success.