

## APSC 450

### Introduction to Torts

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## Introduction

- Who are you?
  - Engineers, computer scientists
- Why are you here?
  - Avoid lawsuits, advance your career, be true professionals
- Who am I?
  - Background, ATAC LAW, Teaching
- Why am I here?
  - Engineering Law class and fear of presentations

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## Topics of Law in this Course

- The Legal System
- **Torts**
- Torts – Negligence
- Criminal Law
- Contract Law
- **Employment Law**
- Intellectual Property Law
- Environmental Law
- Aboriginal Law
- Business Law

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So I saw it on Suits...



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## Common Law

- Judge-made law developed case-by-case (“caselaw”) which originated in England when the common people started to gain rights
- Common law regulates conduct mostly between the people (as opposed to btwn ppl and the state)
- Finding common law: found in “cases” e.g Jones v. Smith.
- Judges decide how the case should turn out and that sets a “precedent” for future cases should turn out.

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## Important Terms in Law

- Plaintiff: the person who makes a claim in a lawsuit - π
- Defendant: the person being sued by the plaintiff - Δ
- Appeal: an action a person can take when they have lost a lawsuit to have the case considered by a higher level of court
- Appellant: the person who brings an appeal; the person who lost the original lawsuit

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## Important Terms in Law 2

- Respondent: the person who defends against the appeal; the person who won the original lawsuit
- Action: a court proceeding; a lawsuit
- Damages: an amount of money awarded by a court to make up for a loss
- Personal Property: almost anything that has a value and is not real estate or related to real estate (also called chattels)

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## Torts vs crimes

- A **tort** is a wrongdoing that involves a breach of a civil duty owed to another party
- A **crime** is a wrongdoing that involves a breach of a duty prescribed by the state
- Some breaches can be both, e.g. a punch is
  - Tort of battery between the parties
  - Crime of assault between the punch thrower and the state

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## Elements of a tort (generally)

1. Breach of an established common law duty
2. Intent (usually)  
If intent not required, then some other standard may apply such as strict liability\* in nuisance ( e.g. pollution)
3. Harm or loss or damage

\*Strict liability simply means that intent is not required to find a person guilty of doing the prohibited thing.

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## Purpose of tort law

- Restoration and compensation
- To put the plaintiff back in the position they were in before the tort occurred
- Can't get more out of law suit than that which you had before the harm occurred
- Compensation is by an award of "damages" (money)
- For egregious conduct, courts sometimes award *aggravated* or *punitive damages*

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## Burden of Proof

- Plaintiff has the burden of proof
- Burden of proof : “on a balance of probabilities”, in other words, more than 50% likelihood
- Criminal law: beyond a reasonable doubt – much higher standard

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## List of torts

### **Intentional Torts**

- Assault (threats)
- Battery (physical contact)
- False Imprisonment
- Intentional infliction of nervous shock
- Conversion (stealing)
- Intentional Interference with Contractual Relations

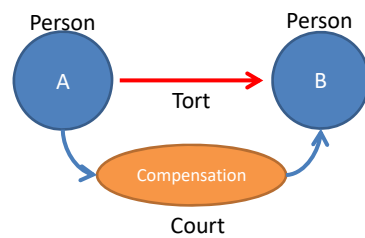
### **Other Torts**

- Defamation
- Nuisance
- Trespass to Land, Chattels
- Passing off
- False imprisonment
- **Negligence**

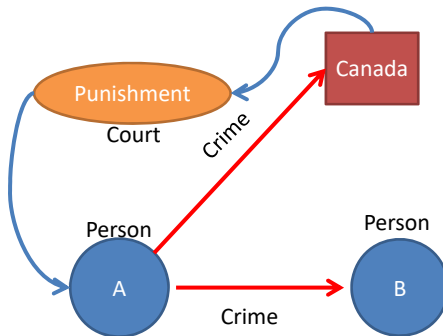
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## Torts vs Crimes

### Torts (Civil proceedings)



### Crimes (Criminal proceedings)



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## Summary: Torts vs Crimes

	Tort	Crime
Purpose	Private, focus on plaintiff	Public, focus on offender
	Restoration, compensation, putting the individual back into the place they were before	Punish those who have committed offences under the criminal code, prevent repeat offenses, and deter others from committing
Procedural difference	Prosecution(suing) by plaintiff	Prosecution by state
Burden of proof	case must be proven on a balance of probabilities (>50% is sufficient)	Heavy – establish guilt of the accused beyond a reasonable doubt
Case Nomenclature	<i>Person Name v. Person Name</i>	<i>R (Regina, The Queen) v. Person Name</i>

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## Torts – Example question

- Scenario: The Bourne Chop

Danielle and Peter are watching the new Bourne movie. Peter is texting his friends about how great the movie is. The sound and light of Peter's phone annoys Danielle, who sits behind Peter. Feeling like she might be related to Jason Bourne, Danielle karate chops Peter in the head causing him to drop and break his phone. Peter suffered no injuries (other than to his ego).

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## Torts – Example Question

- Scenario: The Bourne Chop
  - What can Peter do?
  - Who needs to prove what happened?
  - How convinced does the judge need to be?
  - What will Peter get if he wins?
  - For bonus points: *should* Peter sue?

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## Torts – Example question #2

- Scenario: The Tortious Engineer

EngBob is a geotechnical engineer working for the Owner who intends to build a house on a hilly property. The Owner engages a contractor Mr. Hardy to do the excavation work to flatten the hills. EngBob notices that Mr. Hardy has no clue how to excavate. Mr. Hardy tells EngBob that he is doing extra work just so that he can bill the Owner for the extra work. EngBob then writes a letter to the Owner telling the Owner about Mr. Hardy's poor workmanship. EngBob also writes that Mr. Hardy is taking advantage of the Owner. The Owner cancels Mr. Hardy's contract and hires someone else. Mr. Hardy sues EngBob.

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## Torts – Example Question #2

- Scenario: The Tortious Engineer
  - What could Mr. Hardy Sue EngBob for?
  - What are the elements of the tort(s)?
  - What damages would EngBob be responsible for if Mr. Hardy was successful?
  - Bonus: what will likely happen?

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Thank you

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