

A car driven by the defendant entered land owned by and in the possession of the plaintiff, without her permission.

Which of the following allegations, without additional facts, would provide a sufficient basis for a trespass claim by the plaintiff against the defendant?

- A. The defendant knew that the land was the plaintiff's private property.
- B. The defendant negligently drove his car onto the plaintiff's land.
- C. The defendant purposely drove his car onto the plaintiff's land.
- D. The defendant's car damaged the plaintiff's land.

## Explanation:

### Types of trespass to land

	Conduct	Consent	Harm
<b>Intentional</b>	<i>Intentional</i> entry onto plaintiff's land	Without plaintiff's consent	(No harm required)
<b>Reckless</b>	<i>Reckless</i> entry onto plaintiff's land	Without plaintiff's consent	Causing harm to land or plaintiff
<b>Negligent</b>	<i>Negligent</i> entry onto plaintiff's land	Without plaintiff's consent	Causing harm to land or plaintiff

For an **intentional trespass**, a defendant must act with the **intent to enter** the plaintiff's land, which is either (1) the **purpose** to enter the plaintiff's land or (2) the **knowledge** that the entry is substantially certain to occur. If the plaintiff does **not consent** to the defendant's intentional entry, then the defendant is liable for intentional trespass.

Here, the plaintiff did not give the defendant permission to enter her land. Therefore, the plaintiff can prevail on an intentional trespass claim if she can show that the defendant drove his car with the *purpose to enter* the plaintiff's land (or knowledge that the entry was substantially certain to occur).

**(Choice A)** The fact that the defendant knew that the land was the plaintiff's private property has no bearing on the defendant's tortious conduct—the intentional, reckless, or negligent entry onto the plaintiff's land—and is therefore irrelevant to a trespass claim.

**(Choices B & D)** A defendant is liable for *negligent* or *reckless trespass* when the plaintiff does not consent to the defendant's negligent or reckless entry AND the entry *causes actual harm* to the land or the plaintiff. Here, the defendant entered the plaintiff's land without permission. However, neither (1) the fact that the defendant drove negligently (or recklessly) nor (2) the fact that the defendant's car damaged the plaintiff's land can—on its own—support a claim for trespass. Both allegations are required.

### Educational objective:

A defendant who intentionally enters the plaintiff's land without permission is liable for intentional trespass, even if the entry does not harm the land or the plaintiff. In contrast, a defendant whose entry results from negligent or reckless conduct is only liable for trespass if he/she causes actual damages.

### References

Restatement (Second) of Torts § 158 (Am. Law Inst. 1965) (intentional trespass).

Restatement (Second) of Torts § 165 (Am. Law Inst. 1965) (reckless or negligent trespass).

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