Intentional Torts	
Three Elements	Act, intent, causation
Intent	Purpose of causing consequence or knows consequence is substantially certain
Transferred intent	Different tort against same person; same tort against different person; different tort against different person
battery	intentional contact with the person of another
	unconsented/ unprivileged
	harmful or offensive- intent to harm or offend
assault	intent to harm/ offend through fear
	apprehension of imminent battery
	reasonable apprehension or fear results (mere words not sufficient)
false imprisonment	words or acts intended to confine within a fixed space
	actual confinement
	awareness of confinement or harm
trespass to land	intent to enter
	actual entrance
conversion	intent to exercise substantial dominion
	exercising dominion
trespass to chattels	intent to interfere with chattel
	actual interference with use or enjoyment
	harm results
Intentional Infliction of Emotional Distress	

Defenses to intentional torts	
self defense	affirmative defense for a real threat
	words do not allow self defense
defense of property	cannot use excessive force
	human life > property
consent	look at situation
	no need to articulate consent
	consent negates intent
necessity	apparent necessity

Defenses to intentional torts (cont)
purpose (balancing test)
no other option

Negligence	
Duty	reasonable standard of care
	exception for physical but not mental disability
	negligence per se (satisfies duty and breach)
Breach of Duty	Assessing foreseeable risks and costs
	Assessing reasonable care
	risk utility analysis
	Evaluating conduct/ custom
	Res Ipsa
Actual Damages	medical expenses
	lost earnings
	future earnings
	pain and suffering
	punitive
Actual cause	but-for test
	cause contribute to the accident
Proximate cause	Scope of the risk
	Is the type of injury within the risk
	is type of risk foreseeable ?
	substantial factor
	direct connection
	remoteness in time and space
	**Intervening persons or forces

Defenses to negligence	
Contributory negligence	completely bars recovery
Comparative fault	Jury determines how negligent
Interest of Public Policy	Duty to Protect
	Knowledge of Situation and P vulnerability
	Creates risk to self
Assumption of the risk	express or contractual
	implied assumption of the risk
	primary assumption of the risk

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Special Duty- Landowner	
what's their status	trespasser
	invitee
	licensee
conditions v. activities	no need to warn of natural condition
	do need to warn of unexpected conditions
trespassing child	attractive nuisance
	dangerous instrumentality
	open and obvious

Nonfeasace	
No duty to act	unless you create harm

Duty to protect from third party	
defendant relationship with plaintiff	special relationship?
duty of landowner/ common carrier	specific harm
	prior similar incidents
	totality of circumstances
	balancing test
Defendant relationship with dangerous third party	special relationship?
	directly and foreseeably exposed
	therapist duty to warn of impending danger

Emotional Harm	
Negligent Infliction of Emotional Distress	zone of danger
	direct victim v. bystander
	harm resulting from injury to another

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