Introduction to Law & Legal Studies – Chapter 11 - Torts

**Tort** -- *A civil wrong, other than a breach of contract, for which courts provide a remedy in the form of an action for damages.*

-- Tort law seeks to provide reimbursement to members of society who suffer losses because of the dangerous or unreasonable conduct of others.
-- Establish standards of conduct for all members of society

**Intentional** - Willful misconduct, intentional wrongs without lawful justification or excuse. (intent not necessarily hostile) Intend natural consequences of actions.

Assault / Battery, Conversion, Trespass, Malicious Prosecution, False Imprisonment, Defamation – Libel & Slander, Interference with Contractual Relations, Infliction of Mental Distress, Invasion of Privacy

**Unintentional – Negligence** -- Unintentional failure to live up to community’s ideal of reasonable care. What a reasonable person would do in the circumstances. Not based on moral fault. Protects others against unreasonable risk of harm.

1. Duty of Care – community standard
2. Breach of that Duty- or failure to exercise the requisite care
3. Harm *proximately caused* by breach of the duty

- Causation in fact
  - injuries were actual/factual result of defendant’s action
  - “but for” D’s negligence, plaintiff’s injuries would not have occurred
- Reasonably Foreseeable

Malpractice – negligence by a professional, higher standard because of expertise

Different degrees of liability of owner of premises depending on status of person injured -- Public invitee / business visitors, Licensee, Trespasser

Contributory Negligence – defense – negligence by injured contributed to injuries
Assumption of Risk – defense – knew risk, freely exposed self to risk
Comparative Negligence - % of contribution, may recover portion of damages
Product Liability – “res ipsa loquitur” the thing speaks for itself
Imputed Negligence – person may be liable for negligence of another (employee)

**Strict Liability** – Person involved in abnormally dangerous activities is legally responsible for harmful consequences that are proximately caused.

Poisons, toxic chemicals, explosives, dangerous animals
Product defects in design, manufacture, warnings.