

Review

Makeup Classes

Thursday, April 25th

10:00am until 11:15am in the Hall of the 70s.

Friday April 26th

Tentatively 8:45am until 10:00am in the Hall of the 70s.

Office hours at noon.

Vincent v. Lake Erie Transport Co.

Hand Formula

$$B < P * L$$

Negligence when the burden on the defendant of taking precautions is less than the probability of loss for the plaintiff multiplied by the magnitude of that loss.



Culpability

Strict Liability

Negligence

Intentional Torts

You are a personal injury attorney in the state of Loyola. In Loyola, a protest and counter-protest over gun regulations began to get out of hand. Annie stood at the front lines of the protest arguing for assault weapon regulation, and Bob stood at the front lines of the counter-protest arguing for free assault weapons for public school teachers. The two protests began on opposite sides of city park but grew closer together over the course of the day and were now squaring off face-to-face. Annie started addressing Bob directly. “You think it’s worth it for kids to die so you can pretend you’re a real man? What are you compensating for, buddy? Huh? Wife left you? Maybe instead of buying so many guns, you should buy a gym membership, you fat piece of shit!” As she screamed at him, flecks of spit kept landing on Bob’s face. She pointed her index finger right between his eyes, inches from his face as she said, “No one is ever going to love you.”

Bob drew his SIG Sauer P365 pistol from its holster on his hip and pointed it at the ground by his feet. “Back up. Stop spitting on my face. And stop being so mean to me.” “Are you going to shoot me?” Annie asked. “If I have to.” Bob responded. “I’m calling the cops,” Annie said, and retreated back into the crowd.

Annie did not call the cops. But she did sue Bob for assault. Bob has now hired you as his attorney. Having never been sued before, Bob wants you to advise him on his legal options. Please consider any defenses Bob might raise, any intentional tort claims he might have against Annie, and any defenses she might be able to raise. As you advise Bob, be sure to inform him of how strong or weak these claims or defenses are and why. For the purposes of this question, do not consider any negligence or strict liability claims.

Defenses for Bob

- Consent
- Self-defense
- No prima facie case of assault

Claims that Bob might have against Annie

- IIED
- Battery
- Assault

Structure for this Part of the Course

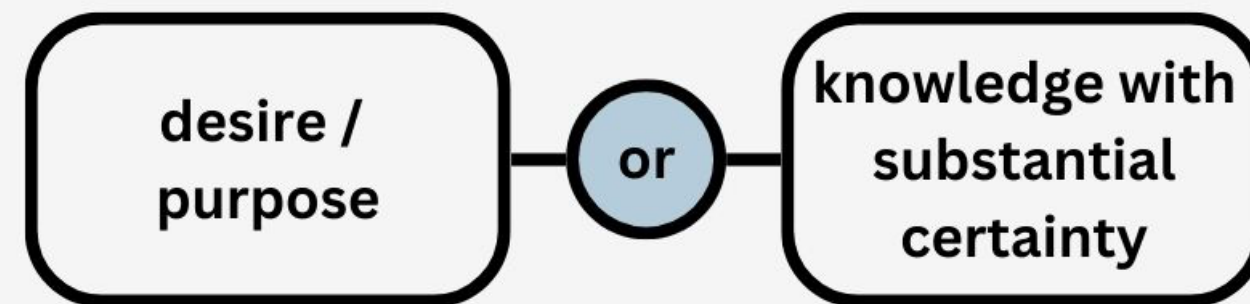
Intentional Torts:

- Battery
- Assault
- False imprisonment
- Intentional infliction of emotional distress

Defenses:

- Consent
- Self-defense
- Defense of property
- Necessity

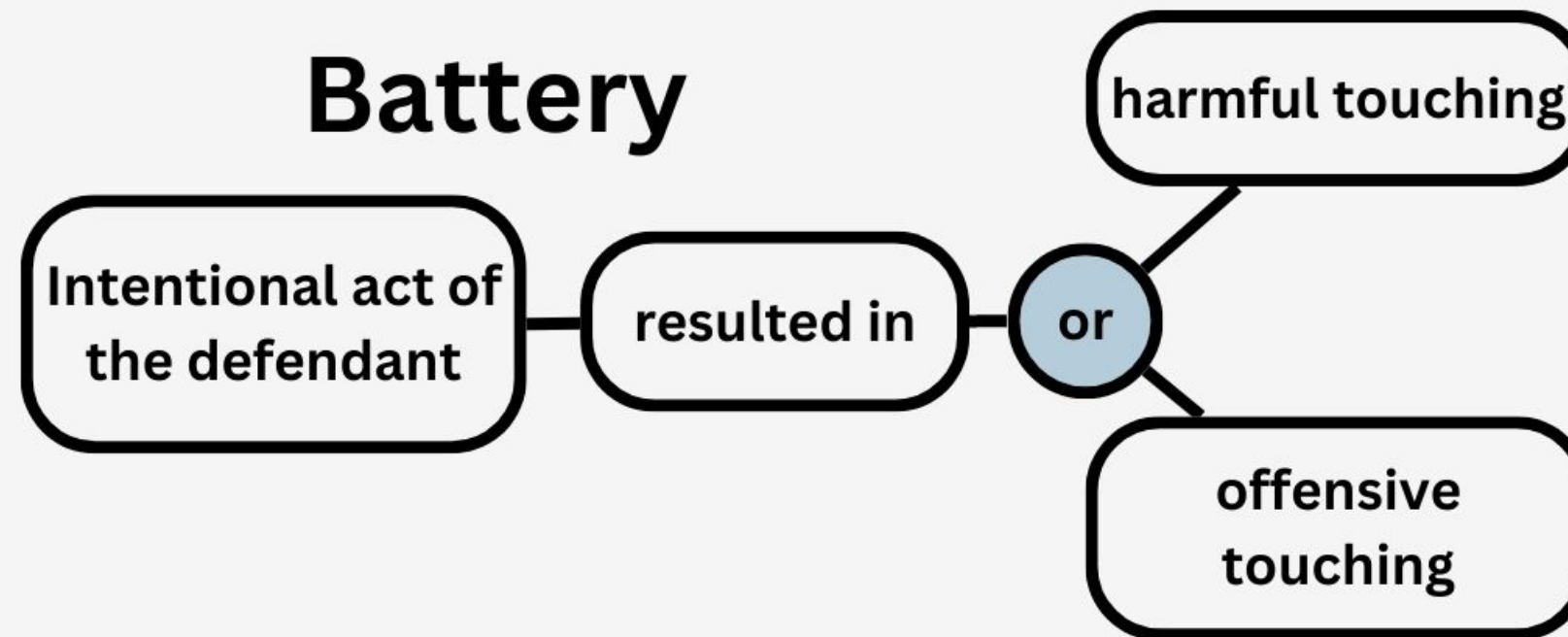
Intent



Abridged Definition from Restatement (Third) of Torts

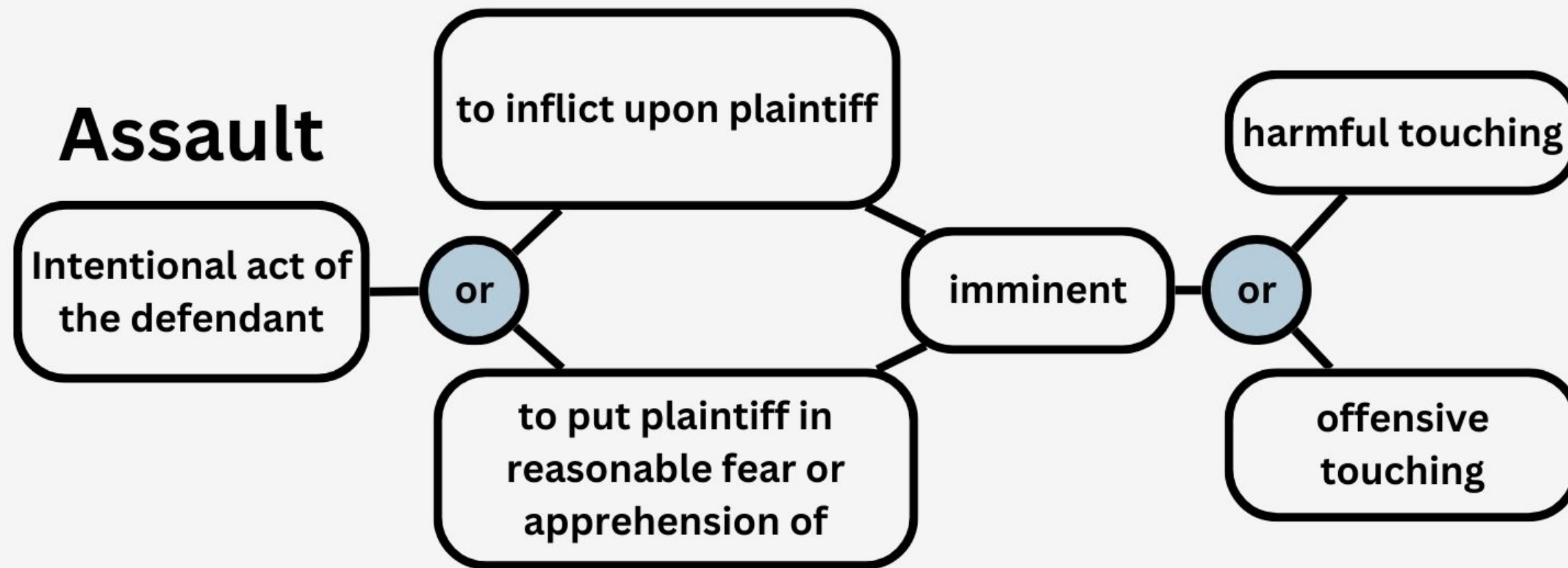
A person acts with the intent to produce a consequence if:

- (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.



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.

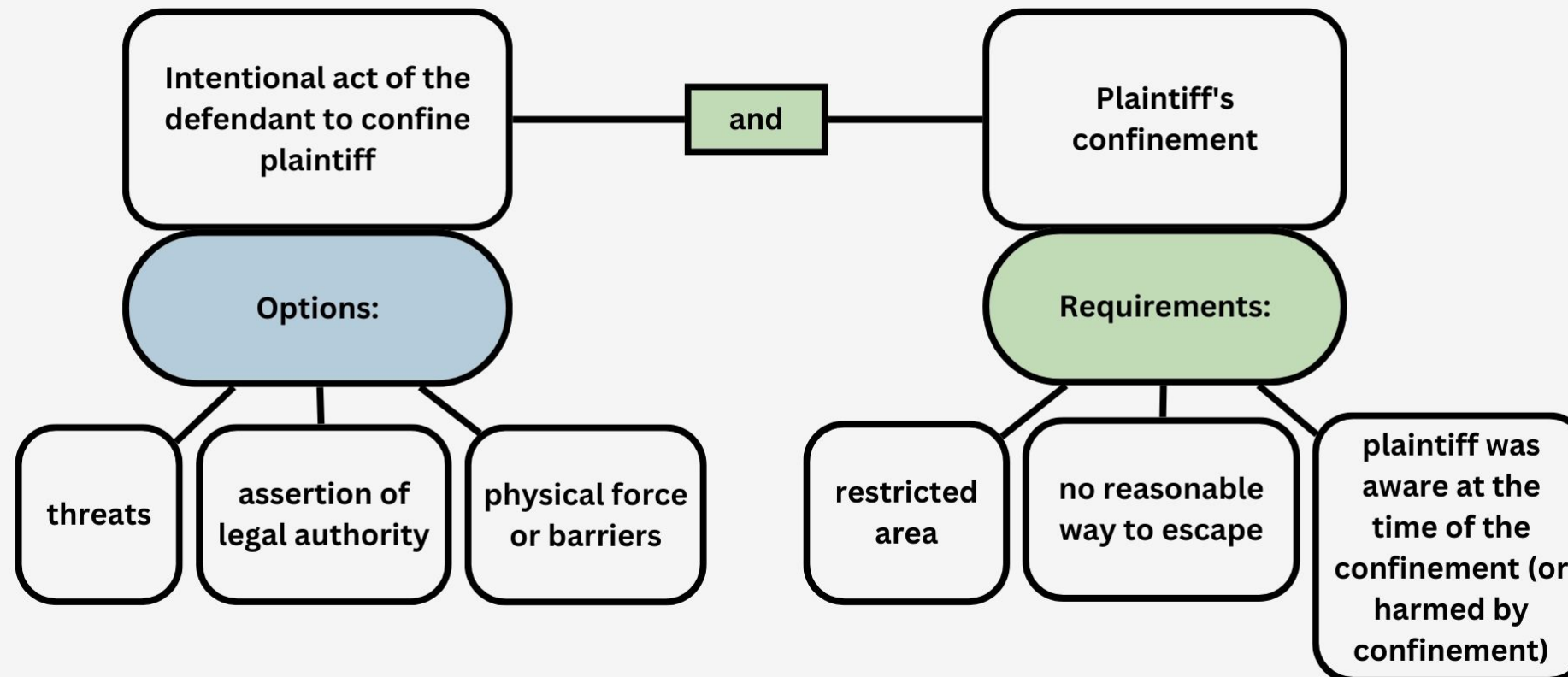


Abridged Definition from Restatement (Second) of Torts

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.

False Imprisonment

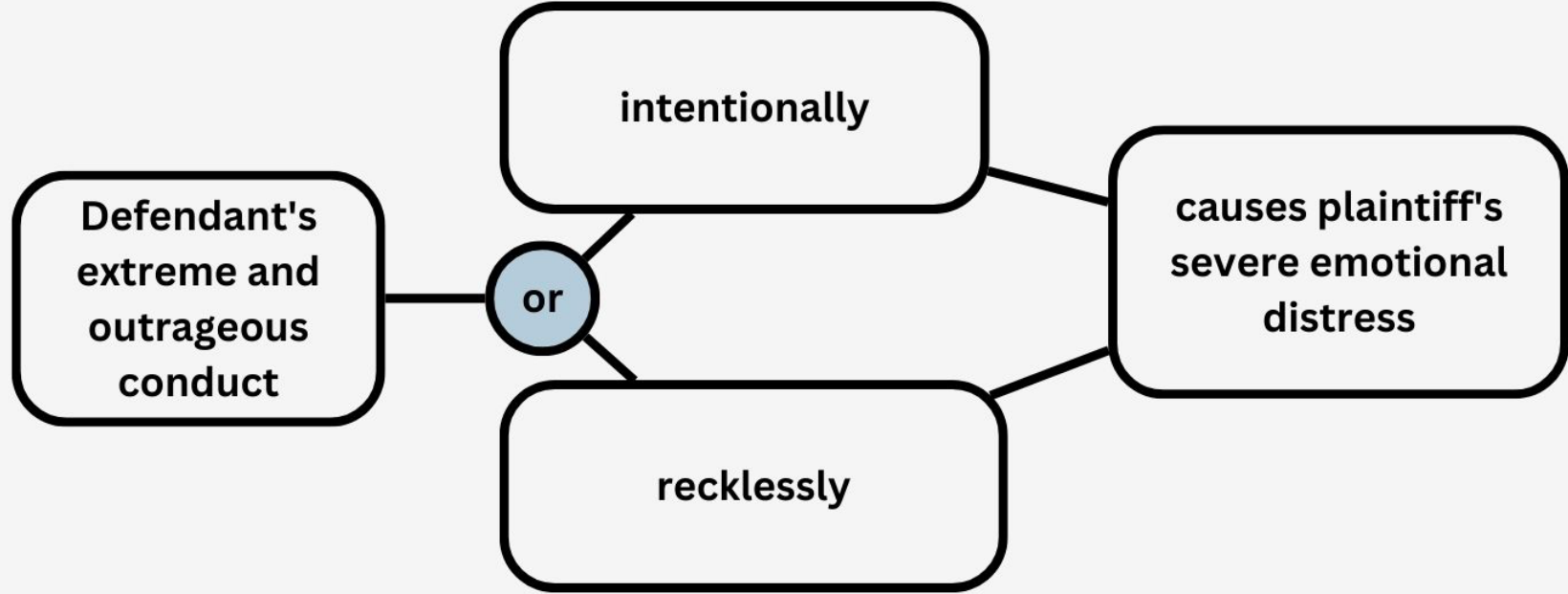


Abridged Definition from Restatement (Second) of Torts

An actor is subject to liability to another for false imprisonment if

- (a) he acts intending to confine the other or a third person within boundaries fixed by the actor, and
- (b) his act directly or indirectly results in such a confinement of the other, and
- (c) the other is conscious of the confinement or is harmed by it.

Intentional Infliction of Emotional Distress



Abridged Definition from Restatement (Second) of Torts

One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm.

Defenses

- Consent
- Self-defense
- Defense of property
- Necessity

How to Outline

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

Example outline excerpt

False Imprisonment

Legal interest:

Requirements:

— Defendant:

— Plaintiff:

— Objective:

Nuances:

Example outline excerpt

False Imprisonment

Legal interest: Freedom from confinement

Requirements:

- Defendant: Intentional act to confine
- Plaintiff: Aware of confinement (or harmed by it)
- Objective: Plaintiff confined

Nuances:

Example outline excerpt

False Imprisonment

Legal interest: Freedom from confinement

Requirements:

- Defendant: Intentional act to confine
 - Threats or physical force / barriers or assertion of legal authority
- Plaintiff: Aware of confinement (or harmed by it)
- Objective: Plaintiff confined
 - Restricted area
 - No reasonable way to escape

Nuances:

Example outline excerpt

False Imprisonment

Legal interest: Freedom from confinement

Requirements:

- Defendant: Intentional act to confine
 - Threats or physical force / barriers or assertion of legal authority
- Plaintiff: Aware of confinement (or harmed by it)
- Objective: Plaintiff confined
 - Restricted area
 - No reasonable way to escape

Nuances:

Lopez v. Winchell's Donut House

[Insert notes on legal reasoning that may apply to circumstances that don't neatly fit within the rules]

Shen v. Leo A. Daly Co.

[Insert notes on legal reasoning that may apply to circumstances that don't neatly fit within the rules]

Example outline structure

Intentional Torts:

- Battery
- Assault
- False imprisonment
- Intentional infliction of emotional distress

Defenses:

- Consent
- Self-defense
- Defense of property
- Necessity