

## LAW BULLETIN

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WHAT IS A TORT?

By Emily Hawk Raley

When I started law school, one of my first classes was “Torts”. The other classes on my schedule - Contracts, Criminal law, Property -- you could get an idea of what the class was about by the title. **What kind of class was torts?** I had heard of the torte – which was a cake, and I became somewhat familiar with torque when my car broke down. But to be honest, I really did not know what a tort was. Luckily, by the end of the semester, I knew a lot more about torts.

“Tort law” allows a person or a company to receive money when they have been injured (physically or financially) by the wrongful conduct of another person or company. The injury may either be caused on purpose, recklessly or by carelessness. The money recovered is to pay back the person/business for the loss or injury. In many cases, money cannot really pay them back (for example, a leg amputation) but will provide for them in the future, and it is the best that can be done. Money awarded in a “tort” case can also be a warning for bad conduct, and punishment for really bad conduct. (Called punitive damages)

As a child, I was driving a golf cart which I let get out of control. Because of my carelessness, I ran over a neighbor’s flowerbed. I destroyed a beautiful garden of flowers. I had to take responsibility for my actions, and offer to replace and repair the damage. **Unknown to me as a child, I had committed a tort.** Having to apologize for what I did and offering to fix it kept me from doing the same thing again. As adults, we cannot punch someone in the nose to control their behavior, but the law does allow financial punishment for the wrongdoing. Generally, the amount of the recovery is not only connected to the cost of the injury, but also directly related to the wrongdoing.

To be found responsible for committing a “tort”, there are four basic requirements that must be met:

- (1.) A person/business must have a responsibility to do something. (For example, as a driver of a car I have a responsibility to the public to drive safely and follow traffic laws.); and

- (2.) A person/business must have failed to meet their responsibility. (If I run a stop sign, I have failed to meet my responsibility.); and
- (3.) The conduct caused the injury. (As a result of running the stop sign, I crashed into another car.); and
- (4.) Caused someone to be injured (either physically and/or financially). (As a result of my crashing into someone's car, the driver was injured, has missed work, and had to pay medical bills.)

(The reason that we buy insurance both on our home and car is so that if we commit a "tort", money will be available to compensate someone for our mistake.)

All four points outlined above must be met. For example, if I run a stop sign and do not cause a wreck I have not committed a tort. If I run a stop sign and actually make contact with another person's car, but do not injure the person or their car, I have not committed a tort where money would be paid. Alabama's tort law system only punishes those who:

- (a) Have a responsibility;
- (b) fail in that responsibility;
- (c) the irresponsible act or failure to act responsibly caused harm;
- (d) injury/damage occurred.

If the case fails to meet these criteria, it will be thrown out of court by the judge.

A tort covers a broad range of injuries, from car wrecks, to being injured on someone's property, to medical malpractice. Tort law is part of our civil system of laws that allow a dispute to be resolved in a court of law rather in the streets. Tort law is not a part of the criminal system. However, a criminal act may be punished in the criminal court, as well as the civil courts (as a tort).

In the case of my plowing down the flower garden, the punishment fit the conduct. I have never done that again. Hopefully, the decisions reached in our courts will bring about the same results.

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Emily Hawk Raley is a native of Gadsden and practices personal injury, and elder care law. She can be reached at the number below or by email at: hawk@alabamatortlaw.com

Cusimano, Keener, Roberts, Kimberley & Miles, P.C.  
153 South Ninth Street  
Gadsden, Alabama 35901  
(256) 543-0400  
Fax: (256) 543-0488

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