

Types of Torts

Trespass

Assault

Battery

Negligence

Products liability

Malpractice

**Intentional
infliction of
emotional distress**

Defamation

Invasion of privacy

Nuisance

Forms of Liability

Fault Liability

(Activities involving ordinary risk)

Intentional

Reckless

Negligent

Strict Liability

(Necessarily hazardous activities)

Forms of Damages

Compensatory Damages

Derive from Duty to Repair
Injuries to Others

Punitive Damages

To Assure that Others Follow
Duty Not to Injure

Causation

Cause in Fact

The actual cause - “but for” X, the injury wouldn’t have occurred

Proximate Cause

The legal reason for liability, it places conditions on which forms of causation create liability

Engaging in Risky Behavior

Assumption of Risk

Because plaintiff engaged in risky activity, that plaintiff voluntarily and knowingly assumed the risks inherent in the activity

Consent

A formal version of assumption of risk, such as found on a lift ticket

Two Approaches to Mixed Negligence

Contributory Negligence

A defense claiming that the plaintiff, through his own negligence, contributed to his own injury

Comparative Negligence

Because plaintiff added to own injury, defendant is only liable for own contribution to plaintiff's injury

Holden v. Wal-Mart Stores, 525

**Holden, who had prior leg problems,
stepped into an alleged pothole in a
Wal-Mart parking lot**

**Following the Wal-Mart accident,
Holden underwent knee surgery,
costing her \$25,000**

**Jury finds Holden 40% responsible,
Wal-Mart 60% responsible**