

MGMT 209/211 Ch.4-5 Review

AGENCY LAW

- Through this legal relationship the agent becomes a representative of the principal and can bind the principal to third parties in contracts and tort law
- Types of Agencies
 - Expressed Agency Agreement
 - Often a written agreement
 - Example: power of attorney
 - Only needs to be in writing if under the Statute of Frauds
 - Agency by Ratification
 - Agent does an action without the knowledge of the principal
 - Principal can agree to actions already done by the agent
 - Principal can also reject actions already done and assume no liability
 - Agency by Estoppel
 - Principal is aware that the agent is acting on behalf but does nothing to stop it
 - Therefore prevented from denying the agent relationship
 - Agency by Law
 - Through operation of law
 - Example: medical emergency with no legal guardian available
- Duties
 - Agent Duties
 - Loyalty: must put principal's interest first
 - Obedience: must follow principal's instructions
 - Reasonable Care: must use reasonable care in performance of duties
 - Accounting: must be honest about property and money of principal
 - Notification: must keep principal informed
 - Principal Duties
 - Cooperation with agent
 - Payment if necessary
 - Reimbursement of reasonable expenses
 - Safe work environment
 - Indemnities for losses suffered
- Liabilities
 - Contract Liability
 - Undisclosed Agency
 - Existence and identity of principal not disclosed
 - Agent bound to contract
 - Disclosed Agency
 - Existence and identity of principal disclosed
 - Principal bound to contract

- Partially Disclosed Agency
 - Existence of principal disclosed but not identity
 - Principal bound to contract
- o Tort Liability
 - If the agent does what the principal instructs then principal is liable
 - Vicarious Liability: if agent engages in unauthorized acts then principal is still liable if within scope of employment
 - Scope of employment determined by studying other authorized acts
 - If agent acts outside scope of employment and commits unauthorized acts then the agent is liable

TORTS AND PRODUCTS LIABILITY

- Tort: a wrong against a private party
- Tort remedies are to compensate injured plaintiffs with monetary damage
- 3 Broad Categories
 - o Intentional Torts: deliberate action which results in injury
 - o Negligent Torts: an unintentional tort that arises from failure to provide reasonable care
 - o Strict Liability: liability without fault, you did that act that causes the harm
- Purpose of the Law of Torts
 - o Compensation and Appeasement
 - Receipt of compensation to the plaintiff
 - Knowledge that the transgressor is punished by having to pay
 - o Justice
 - Expression of moral principle
 - Ethical Retribution: payment harmful to the offender
 - Ethical Compensation: payment is beneficial to the victim
 - o Deterrence:
 - Cost of preventing the accident
 - Cost of actual injuries after the accident
 - The party who is the least-cost avoider should be held liable
 - Least-Cost Avoider: party that could have avoided accident at the least cost
 - Grocery Store Example: cheaper to put up parking lot lights to prevent mugging than for people to acquire bodyguards thus the store is the least-cost avoider
 - o Social Insurance
 - Party that is in the best position to spread loss should be held liable
 - Part of the Deep Pockets Theory
- Damages
 - o Damages are intended to make the victim whole again or at least financially
 - o Compensatory Damages
 - Past and Future Medical Expenses
 - Past and Future Economic Losses

- Past and Future Pain and Suffering
 - Punitive Damages
 - Intended to punish defendants
 - Intentional Torts and Negligence
 - 8th Amendment protects against excessive fines
 - States have passed statutes limiting punitive damages to a multiple of compensatory damages
 - Heavy lobbying from insurance companies
- How a Business Becomes Involved in a Tort
 - Due to actions on an employee
 - Due to own actions against another company
 - Due to its products
- Reasonable Person Standard: what would a reasonable person do in a like situation
- Intentional Torts
 - Personal Intentional Torts
 - Assault
 - An intentional action that places a person in fear or apprehension of immediate bodily harm
 - The victim must know of the intentional act
 - Battery
 - Unlawful touching or physical contact without permission
 - Can be in tandem with assault or without assault
 - Defenses to Assault and Battery
 - Consent
 - Signed releases or waivers or in a sporting event
 - Possible to go past level of consent
 - Privilege
 - When acting in the scope of their official capacity
 - Example: police officer duties
 - Self-Defense
 - Deadly force when deadly force used against you and fleeing isn't an option
 - With property, you can use reasonable force but not deadly force to protect property
 - False Imprisonment
 - Intentionally causing the confinement of another person without legal consent or justification
 - Physical restraining an individual
 - Using threatening force against and individual or family
 - Using the threat of force or force against property
 - Refusing to release an individual from confinement with duty to release