

I. Consent

- A Doctrine of informed choice
- B Defined: an act of informed agreement by a free and competent person to accept the consequences of intentional acts of another.
- C Does not extend to unnatural or unimagined consequences.
- D Consent may be express or implied

II. Privileged Defense of Self, Others, Property

A Defense of self:

1. Privileged, reasonable force may be used to prevent threatened harm to body or property.
2. An affirmative defense – defendant must prove the necessity.
3. Force used must be proportional to the threat. May use deadly force only when the threatened force itself is deadly.
4. May be a duty to retreat, except no duty to retreat from your own home.

B Defense of others:

1. If the other person had a privilege of self defense, another person may act in their defense as they could have.

C Defense of Property:

1. Must use proportional force, or just sufficient force
2. no deadly force.

III. Legal Process

- A Actor engaged in service of process or execution of a court order
- B Process is valid
- C Force used is reasonably necessary to carry out the court order.

IV. Mistake

- A Genuine belief
- B Action undertaken relying on belief\
- C Tortuous interference with interests of another.

V. Necessity

- A A choice between the lesser of two evils
- B Elements:
 1. Threat arising from natural event
 2. intentional tort by defendant
 3. threat of more serious injury to the defendant
 4. threat not coming from the plaintiff
 5. actual avoidance of a greater harm.

- C Distinction, public necessity and private necessity
 - 1. public necessity, a threat to an interest of the public
 - 2. private necessity, a threat to the safety of the defendant
 - D An honest mistake about the nature of the threat to be avoided will not destroy the privilege
- VI. Privilege
- A Distinction: "pure heart" privilege, and immunity.
 - 1. Pure heart, defendant's tort was based on a proper motive
 - 2. Immunity: defendant's tort is in service of a public good, and motive won't be challenged
- VII. Reasonable Discipline
- A In loco parentis
 - B Reasonable force and corporal punishment
 - 1. for the child's benefit
 - 2. no substantial risk of death, serious physical injury, disfigurement, extreme pain or mental distress
- VIII. Recapture of Land and Chattels
- A Defense to a trespass claim
 - B Elements
 - 1. Tortious dispossession of the defendant

2. immediate right of possession in the defendant
3. prompt recapture
4. demand for peaceful return ineffective.

C Alternative, action for recovery or eviction

IX. Statute of Limitations

A Not an argument; a complete bar.

B Distinguish, limitation of action and ultimate repose

C Tolled

1. absent from jurisdiction
2. intentionally evading service of process
3. lack of competency

X. Warrantless Arrest

A No good faith exception for the absence of legal authority to make the arrest

B Defendant may not violate constitutional rights.