

# Tort Law Basics

**IMPORTANT:** The legal information contained in this sheet is intended to have an overview about tort law. It is not intended to serve as legal advice or to replace the guidance of a lawyer.

## TORTS ON ONTARIO

### Understanding Common Law Torts and remedies

In civil law (or “tort law”), a **tort** is an act or omission that causes harm to another person and may give rise to a claim for financial compensation in court. Unlike criminal law, where the state prosecutes the wrongdoer, in tort law it is the **victim** who initiates the action.

Torts are common law creations from judges’ decisions. Torts ensure that a person who suffered an injustice or a wrong could seek a remedy against the wrongdoer such as

- **monetary remedies**, also called “damages”
- **declaratory remedies**, meaning a judge’s declaration
- **injunctions**, which is an order saying someone can or cannot do something.

In **Ontario**, common examples of **torts** include:

- **Civil fraud**: intentionally deceiving someone for personal gain.
- **Defamation (libel or slander)**: making false statements that harm someone’s reputation (libel = written, slander = spoken).
- **Intentional emotional distress**: deliberately causing severe emotional or mental suffering.
- **Invasion of privacy**: intruding into someone’s private life without consent.
- **Negligence**: failing to exercise reasonable care, causing harm to another person.

**Tort:** is a wrongful act that injures or interferes with another person or his or her property.

- Is a civil court proceeding.
- The victim is called the “**plaintiff**”. The plaintiff starts the claim.
- The alleged wrongdoer is called the “**defendant**”. If the defendant loses, the defendant will typically have to pay damages to the plaintiff.

**Crime:** is an act that breaks one of Canada’s criminal laws.

- A crime is sometimes called “**an offence**” under the *Criminal Code of Canada*.
- Someone who is charged by police with a crime is called the “**accused**” who is presumed to be innocent until proven guilty at trial.

- **Trespassing on property:** entering or remaining on someone else's property without permission.
- **Assault and battery:** assault = threatening harm; battery = physically harming someone.
- **False imprisonment:** unlawfully restraining or confining someone against their will.
- **Theft or wrongful taking of property:** unlawfully taking someone else's property.
- **Vandalism:** intentionally damaging or destroying someone else's property.

## DIFFERENCE BETWEEN A TORT AND A CRIME

### Understand the concept

**Tort law** is used by a **person** to claim **compensation** for a **loss** or **injury** suffered, whereas **criminal law** is to **punish** and **prevent crimes** and to **protect the public**.

### TORT LAW

When you suffer **damage** from another person and seek **financial compensation** or **recovery of your property**, you can start a **civil action**. A **civil action's** purpose is to ensure **fairness** by putting the **injured person** in the position he or she would have been in had the **tort** not occurred.

It's the **injured person** who **sues**, called the "**plaintiff**". The **plaintiff** seeks **remedy** for the **injustice** or **wrong** allegedly caused by the **wrongdoer**, called the "**defendant**". In general, the **plaintiff** seeks to obtain **financial** or **material compensation** for the **injustice** or **wrong** he or she has suffered.

### EXAMPLE: CIVIL ACTION

For example, if a person makes **false statements** that affect your **reputation**, you can **sue** him or her by starting a **civil action** for the tort of **defamation** and could obtain:

- **damages (money)** to compensate you for the **financial losses** caused by the **defendant's** words
- a **declaration** from the **court** denouncing the **defendant's** statements and confirming that this person infringed the **plaintiff's rights**
- an **injunction** (order from a judge) to stop the **defendant** from making **false statements**

The **burden of proof** in **civil litigation** is on a **balance of probabilities**, meaning it is more likely than not that the **tort** occurred.

### CRIMINAL LAW

When you are a **victim** of a **crime**, the **police** may lay **charges** on the person who allegedly committed the **crime**. A **criminal proceeding's** purpose is to ensure people **respect the law** and to **punish** those who have committed a **crime**, in order to **deter** behaviours that are dangerous to society.

In a **criminal proceeding**, the **government** (federal, provincial, or territorial) **sues** the **accused**. The government is represented by the **Crown Attorney**. The **victim** is not a **party** to the case but is typically called as a **witness**.

The **Crown Attorney** must demonstrate, **beyond a reasonable doubt**, that the **accused** committed the **crime**. This **burden of proof** is higher than the **balance of probabilities** required in a **civil action**.

The possible **consequences** of a **criminal proceeding** are:

- **a fine** (a sum of money)
- **restitution** (paying costs of injuries or loss)
- **community work** (hours of volunteer work)
- **probation** (sentence served in the community)
- **imprisonment** (prison or penitentiary).

When a **tort** is also deemed a **crime**, it is possible to start a **civil action** even if a **criminal proceeding** will take place or has already taken place.

## STARTING A CIVIL ACTION IN ONTARIO

### Small claims court vs Superior court of justice

In **Ontario**, a **civil action** can be started at the **Superior Court of Justice** for matters over **\$50,000**, and for matters of **\$50,000 or less**, at the **Small Claims Court**. The **procedures, forms, and rules** differ depending on **which court** you choose to bring your claim.

An overview of civil litigation in Ontario is readily available on the government of Ontario webpage [Civil claims: suing and being sued](#), [Small claims court: suing someone](#) and the [Guide to procedures in small claims court](#).

Before starting a civil action, it is strongly recommended to consult a lawyer who will analyse your situation and determine if your action can lead to a successful outcome.



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The **Ontario Legal Information Centre** provides free confidential legal information and referral services to persons whose legal issue is in Ontario. The Centre offers services in French and in English. **Make an appointment online** or **call us at 1-844-343-7462** (toll-free).



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