

# Misrepresentation (Fraud)

## 1) Material misrepresentation

- o Must be a factor in the transaction
- o Distinguish “mere puffing”

## 2) Defendant had knowledge of its falsity (“scienter”)

## 3) It was intended to induce reliance

- o If the defendant thinks that it won't have an impact on the transaction, there is no fraud

## 4) It did induce justifiable reliance

- o The plaintiff must have actually believe the statement and must have used it in the decision-making process
- o The reliance must be reasonable

## 5) Economic damages

- o Something must go wrong with the goods or transaction that is related to the false statement

# Injurious Falsehood

Same basic idea as defamation, but applies to a business context.

Elements are same as other defamation:

- 1) False statement
- 2) Disparaged Plaintiff's property or business interests
- 3) The statement caused Plaintiff to suffer harm
- 4) Economic damages

**2 types:**

## Slander of Title

- Defendant claims that the plaintiff lacks title of the property in which he is dealing  
("He doesn't own that property he's trying to sell or lease out")

## Trade Libel

- Defendant makes false statements as to the quality of plaintiff's goods so that customers will be discouraged from buying them  
("Don't buy from her, she rips customers off")

# Interference with Business Relations - Interference with Contract

## Elements:

- 1) Existence of a valid contractual relationship
- 2) Defendant knows of that relationship
- 3) Intentional interference with the contract
- 4) That leads to breach or termination of the contract
- 5) Damages (economic)
  - o i.e., the plaintiff must show that the breach harmed him or her financially

# Malicious Prosecution

## Elements:

- 1) Institution of a criminal proceedings (can be done by complaining to the police or the DA; of course, only a DA can actually file a criminal charge and prosecute someone)
- 2) Termination in Plaintiff's favor on the merits (not because of a technicality like a search and seizure problem).
- 3) No probable cause to believe P did commit the crime- can't be reasonable for the Defendant to have actually thought that P committed the crime. If he did reasonably think P was guilty, no tort, no matter his evil intentions
- 4) Improper purpose in bringing the charge
- 5) Damages

- Judges and prosecutors are immune from this tort

## Abuse of Process

- Same as malicious prosecution, but in a non-criminal charge context e.g., suing someone just to harass him or her...

**QUIZ TIME!**