



Tort Law Defences (Hart Studies in Private Law)

James Goudkamp

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The law of torts recognizes many defenses to liability. While some of these defenses have been explored in detail, scant attention has been given to the theoretical foundations of defenses generally. In particular, no serious attempt has been made to explain how defenses relate to each other or to the torts to which they pertain. This book reduces the size of this substantial gap in the understanding of tort law. Principally, the book does so by developing a taxonomy of defenses. It argues that all defenses should be sorted into the following three categories: absent element defenses, justification defenses, and public policy defenses. Absent element defenses are denials by the defendant of one or more of the elements of the tort in which the claimant sues. Justification defenses are defenses that are available where the defendant acted reasonably in committing a tort. Public policy defenses are defenses that relieve the defendant of liability even though he committed a tort without justification. The book shows that much can be learned about a given defense (as well as defenses in general) from the way in which they are classified within this system. It is a fresh and original study which will be of interest to all those working in the field of tort law. (Series: Hart Studies in Private Law - Vol. 8)

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