



## DEMO MNEMONICS AND DEFINITIONS SERIES

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# LAW SCHOOL AND BAR EXAM SERIES

## MNEMONICS AND DEFINITIONS

### CRIMES \*

### TORTS AND NEGLIGENCE \*

### CONTRACTS AND UCC \*

**\*Each Title is Sold Separately\***

**By Edward I. Torriel**

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# DEMO VERSION

This demonstration copy is intended to provide the user with the basic concept behind the books and to demonstrate the functionality and use that can be expected from a fully functional printable copy. The three separately available Mnemonics and Definitions Series books were combined in this single demo for demonstration purposes. **Each book is sold separately.** Please read [this section](#) and the [Introduction](#) for a brief explanation of the basic concept and use of the book.

## The Value of Mnemonics

One of the most difficult tasks faced in taking a Law School or Bar essay exam is remembering to discuss every important issue presented in a fact pattern in a logical order. The time pressures involved in taking an exam are great and issues may not be immediately apparent. If an issue is not noticed until after the actual writing of the exam has commenced, the logical order of the essay will be disrupted.

Our solution is to provide a complete and properly ordered Mnemonics Check List made up of short phrases that include all important issues in a logical order of discussion for each subject. This way an entire Legal Subject is reduced to memorizing a few short phrases that can be recalled quickly during a test.

A Check List that requires writing down each legal term is time consuming. For example, a Check List for Specific Intent Crimes should contain **Murder One; Manslaughter; Inchoate Crimes: Solicitation, Attempt, (and Conspiracy); Burglary; Robbery; Assault; and Theft.**

It will take time to recall and write down each word and if any issue is not included for the sake of time that issue may be left off the exam. A short Mnemonic phrase can be used to help with recall, solve the time problem, order each issue logically, and include every important legal issue.

The same Check List as above is presented in the Crimes book and in this Demo under Crimes by Mental State in Mnemonic form: **MRS MOM IS A BRAT** The mnemonic was designed to place **Mens Rea** first represented by "**MR**" because **Mens Rea** should be explained before engaging in a discussion of Criminal Mental States, the "**S**" stands for **Specific Intent** which is then followed by each Specific Intent Crime represented by the first letter of each. Clearly, the Mnemonic Check List is will take less time to recall all issues in a logical order.

This general concept is followed in the design of the Mnemonics presented in each book.

**Mnemonics and Definitions series** Books are separately available for Criminal Law, Contract Law including the UCC, and Tort Law which includes Intentional Torts, Other Torts and Negligence.

**Hyperlinked Series:** Cal Bar Essay Answers, Cal Bar Performance Test Answers, Federal Rules of Civil Procedure, Federal Rules of Evidence, Federal Judiciary, Corporations; Bouvier Law Dictionary - 1856; South Carolina Criminal Law and Procedure; South Carolina Civil Remedies and Procedure; South Carolina Evidence and Appeals.

# INTRODUCTION

A **Mnemonic** is a device used to assist in memorizing lists of words. Memorizing the mnemonic assists in memory recall of the words represented. In this book, each letter of a mnemonic corresponds to the letter of a legal term. Recalling the mnemonic from memory takes less time than recall of an entire list of terms.

The mnemonics included in this book reference the important common law substantive legal terms that must be discussed in law school and bar exams. The purpose of the included mnemonic devices is to provide a quick check list so that every important issue will be discussed if relevant when taking an exam. The corresponding definitions are based on common law principles and should be used as a starting point for a full understanding of each concept. Further research of the fine points of each rule will be necessary. Application of the law to factual situations is not addressed in this book, however spotting all relevant issues and the ability to recite the elements of each rule are both essential to proper legal analysis.

**Use of this book** in electronic form provides both a unique learning experience and a handy reference tool based on the hyperlink features employed. Letters in blue text are hyperlinks that will take the reader to the section of the book related to the word or phrase. Clicking on the Back Arrow in the navigation toolbar area returns the reader to the previous section. Please note that the functions and layout features will vary depending on the set up and capabilities of the specific reader program. To get an idea about how to use these features, use the mouse to left click on any words in **blue** text.

Since this electronic publication is also a book, it can be printed and used the old fashioned way.

Please contact us at [crogware@wisteriamanor.com](mailto:crogware@wisteriamanor.com) with Questions, Comments and Suggestions.

Sincerely, Edward Torriel

# MNEMONICS

## CRIMES

### MRS MOM IS A BRAT GRAB MMA

(Starts with Mens Rea)

Plus three other mnemonics: Crimes Definitions, Defenses to Crimes, and Affirmative Duty to Act. The four mnemonics cover every important substantive Crime and Defense along with the rules and elements of the rules.

Click on the [Crimes](#) Hyperlink above to view the Crimes Demo Section.

## TORTS AND NEGLIGENCE

(Starts with Intentional for Torts and Duty for Negligence)

The Torts Book contains eleven mnemonics that cover the definitions for Intentional Torts and Defenses, and all other important Torts and related issues including Defamation, Invasion of Privacy, and Product Liability.

The Negligence Book, included with the Torts Book, contains three mnemonics that cover the prima facie elements and definitions for Negligence, other considerations that should be discussed in a Negligence claim, and Negligence Defenses.

Click on the [Torts](#) Hyperlink above to view the Torts Demo Section.

## CONTRACTS AND UCC

(Starts with Contract for the Common Law section and Goods for the UCC section)

The Contracts and UCC Book contains ten mnemonics that cover all important contracts rules and the elements for a valid contract with definitions, real defenses, personal Defenses and remedies.

Click on the [Contracts](#) Hyperlink above to view the Contracts Demo Section.

# CRIMES BY MENTAL STATE

## MRS MOM IS A BRAT GRAB MMA

**Mens**

**Rea**

**Specific (Intent)**

**Murder**

**One**

**Manslaughter (Voluntary)**

**Inchoate**

**Solicitation**

**Attempt**

**Burglary**

**Robbery**

**Assault**

**Theft**

**General (Intent)**

**Rape**

**Assault**

**Battery**

**Malice**

**Murder**

**Arson**

# CRIMES DEFINITIONS

## Attempt

**A S A C R A B L E F T B A R K M O M V I M**

An act of taking a substantial step beyond mere preparation with [Specific Intent](#) to commit an act which is a crime at the time of the substantial step.

### **Common Law: Defense of Impossibility**

A substantial step toward committing an act which is not a crime cannot be an [Attempt](#) to commit a crime.

### **MPC and Majority: Physical Impossibility**

No defense to [Attempt](#): The act and guilty mind concur if a person intends to commit an act which would be a crime had the [facts](#) been as the person believed them to be.

### **Modern Defense: [Abandonment](#)**

A complete and voluntary renunciation and withdrawal prior to completion of the target offense is a defense. A completed crime cannot be [Abandoned](#).

### **Transferred Intent**

An act done during an [Attempt](#) may result in both an [Attempt](#) to commit the target crime and a completed crime against any unintended victim actually harmed: The [Mens Rea](#) and the Actus Reus (Bad Act) required for the completed crime must be satisfied apart from the [Attempted](#) crime.

# Solicitation

**A S A C R A B L E F T B A R K M O M V I M**

An act urging another to commit an unlawful act.

The urging must be done with **Specific Intent** to commit the unlawful act. **Solicitation** is complete at the time the other is asked or urged.

## Merger Doctrine

Lesser included offences merge into the greatest offence completed for double jeopardy purposes.

### Solicitation Merges with:

1. **Conspiracy** if an agreement is reached; and
2. The target crime if completed; or
3. **Attempt** to commit the target crime if a substantial step only is taken toward completion.

# OTHER CRIMES DEFINITIONS

## General Intent

**Intent** to do an act which is a crime.

### Mens Rea

The **Mental State** required for **General Criminal Intent** may be inferred from that fact that without justification or excuse there is no lawful reason to do the criminal act.

### General Intent Crimes

**Rape**

**Assault**

**Battery**

# Inchoate Crimes

Acts beyond preparation done with [Specific Intent](#) to commit a target crime.

[Inchoate Crimes](#) are complete at the time of the act beyond preparation if the required [Specific Intent](#) exists at the time of the act.

**Inchoate Crimes:** [Attempt](#), [Solicitation](#), [Accomplice Liability](#), [Conspiracy](#).

# Malice

An act done [Purposely](#), [Knowingly](#) or [Recklessly](#).

## Malice Crimes

### Murder

An act committed with [Malice Aforethought](#): [Second Degree Murder](#), [Malice Murder](#).

### Arson

An act committed by [Malicious](#) Burning: Causing the charring of the fiber of the dwelling house of another at least [Recklessly](#).

[Malice](#) for [Arson](#) does not require [Intent](#) to burn or to cause damage.

# Specific Intent

An act done for the purpose of causing the result or with knowledge that the result is substantially certain to occur.

The **Mens Rea** that may be inferred **Generally** from doing a bad act is not enough to show **Specific Intent**.

## Additional Defenses

**Voluntary Intoxication**

**Mistake of Fact**

Any good faith **Mistake** however unreasonable.

The additional defenses may negate the **Specific Intent** element and mitigate the crime to a lesser included **General Intent** crime.

## Specific Intent Crimes

**Murder One**

**Voluntary Manslaughter**

**Inchoate Crimes**

**Burglary**

**Robbery**

**Assault**

**Theft**

# Strict Liability

Criminal liability imposed regardless of [Intent](#).

[Criminal Intent](#) is not an element of a [Strict Liability](#) crime. The act completes the crime.

[Mistake of Fact](#) is No Defense to [Strict Liability](#) however reasonable.

Constitutional Due Process concerns are satisfied only if:

1. Legislative intent to impose [Strict Liability](#) is clearly and expressly stated in the law; and
2. The law is regulatory in nature and the penalty is minor.

[Strict Liability](#) is imposed for traffic violations, tax violations, and other regulatory offenses.

## [Statutory Rape](#)

[Statutory Rape](#) is constitutionally valid with a potentially major penalty because the State has a substantial interest in protection of children.

# Theft

## Modern Law

Crimes of stealing are categorized as **Theft**: [Larceny](#), [Embezzlement](#), [False Pretenses](#), [Trick](#).

# INTENTIONAL TORTS DEFINITIONS

## Intentional Act

**I B A T I F C T T**

A volitional act done for the purpose of causing the result or with knowledge that the result is substantially certain to occur.

### Volitional Act

An act that is voluntary and not forced: Willful and conscious bodily movement: An act done based on a mind and body connection: Bodily movement caused by a force other than free will is non-volitional.

### Non-Volitional Acts

Sleepwalking, reflexive movement, muscle spasms, forced movement caused by another person, thing or gravity.

### Intentional Torts

Require a volitional and [Intentional](#) act: [Battery](#), [Assault](#), [Intentional Infliction of Emotional Distress](#), [False Imprisonment](#), [Conversion](#), [Trespass to Chattel](#), [Trespass to Land](#).

Any claim for an [Intentional](#) tort provides a prima facie case for a claim of [Intentional Infliction of Emotional Distress](#). The doctrine of [Transferred Intent](#) applies to all [Intentional Torts](#) except [Intentional Infliction of Emotional Distress](#).

### Negligence

Volitional acts or omissions not done for a tortious purpose that result in harm to persons or property of others are protected against under [Negligence](#).

### Accidents

Acts or omissions that do not satisfy the elements required for [Negligence](#) are **Accidents** that carry no tort liability though there may be responsibility for actual damage caused.

# Battery

## I B A T I F C T T

An act with **Intent** to cause and does cause a harmful or offensive contact with the person of another.

### Intent

There must be **Intent** to cause contact with knowledge that it will be harmful or offensive to another.

The doctrine of **Transferred Intent** applies: **Intent** to cause a **Battery** will satisfy the **Intent** required for any other **Intentional Tort** actually completed; and **Intent** to cause a **Battery** against one person satisfies the **Intent** required to cause a **Battery** against any person actually contacted.

### Harmful or Offensive

Offensive contact is sufficient: Unpermitted and without **Consent**: Presence in public places implies **Consent** to harmless contact that occurs.

Physical harm is not required: The contact may be for the person's good: A doctor who performs surgery on a patient under anesthesia without prior express or implied **Consent** has committed a **Battery** even if the result helps the patient.

Awareness of the contact by the person injured or offensively touched at the time of the contact is not required: Contact without awareness at the time would be a **Battery** without an **Assault**.

### Person of Another

Includes anything closely connected to the person: A plate in hand, a horse for the rider, a car for an occupant - are all closely connected to the person.

### Interest Protected

Personal Safety and Dignity. A **Battery** claim gives rise to a claim of **Intentional Infliction of Emotional Distress**.

# NEGLIGENCE DEFINITIONS

## Duty

### DRBNAPD

The legal obligation to exercise the **Standard of Care** necessary to prevent an unreasonable and foreseeable risk of harm to others.

### Palsgraf Case: The Foreseeable Plaintiff

#### Cardozo View

A **Duty** of care is owed only to a foreseeable plaintiff within the zone of danger; Anyone in the zone of danger is foreseeable. **Negligent Conduct** cannot be established without a legal **Duty** of care.

#### Andrews View

A **Duty** of care is owed to everyone; An act that **Causes** harm to another is a **Breach** of that **Duty** and establishes **Negligent Conduct**. **Proximate Cause** must be established for **Negligence** Liability.

### Standards of Care: The Duty Owed

1. **Reasonable Prudent Person:** Every person is conclusively presumed to possess the same mental qualities as a reasonable prudent person and must exercise them in preventing harm to others.
2. **Professional:** Every professional is conclusively presumed to possess the knowledge and skill of a reasonable prudent member of the same profession in good standing in the community; Specialists are presumed to possess superior skills.
3. **Common Carrier and Innkeeper:** The highest **Duty** is owed to use extreme care to protect passengers and guests from harm and offensive behavior.
4. **Physically Disabled Person:** A reasonable prudent person with the same physical characteristics.
5. **Child: LAME:** A reasonable prudent child of **Like Age Maturity and Experience** engaged in child activities: The reasonable prudent adult **Standard** is applied to a child engaged in adult activities.
6. **Undiscovered Trespasser:** No **Duty** is owed. Exception: **Attractive Nuisance:** The **Duty** to ensure safety of children for unreasonably dangerous artificial conditions on the land where the owner knows or should know children are likely to **Trespass** and would be unaware of the serious risk of harm due to their age; The risk of harm is balanced against the cost to abate the risk of danger.
7. **Discovered Trespasser:** The owner of land knows or should know of their presence: The **Duty** to warn of known dangerous artificial conditions on the land.
8. **Licensee:** An invited guest on the land for their own purposes: The **Duty** to warn of any known dangerous conditions.
9. **Invitee:** A person in a place of public accommodation for purposes of the owner: The **Duty** to reasonably inspect and adequately warn of discovered dangers or to make safe all areas within the scope of the public purpose: There is no **Duty** to make dangers safe that should be obvious to a reasonable person: Adequate warning makes the danger obvious.
10. **Bailment:** Paid Bailment: Invitee **Standard:** The **Duty** to inspect and warn or make safe; Gratuitous Bailment: Licensee **Standard:** The **Duty** to warn of known risks.

# OTHER TORTS DEFINITIONS

## Actual Malice

The publisher of [Defamation](#), [False Light](#), or [Private Facts](#) knew or should have known the assertion was false or acted with [Reckless](#) disregard for the truth.

[Actual Malice](#) must be proved by the plaintiff when the assertion or portrayal is of and concerning a public figure or public official, or is a matter of public concern.

# CONTRACT FORMATION

## Consideration

### C O R P R A L L

The bargained for exchange of [Legal Detriment](#) that is the purpose for entering into a [Contract](#); or a [Legal Substitute](#).

**Mutuality of Obligations:** A promise is [Illusory](#) or gratuitous unless each party has an obligation to perform.

**Legal Detriment:** [Waiver](#) of a legal right: Refraining from doing something a person has a legal right to do.

### Legal Substitutes

A party is [Estopped](#) from denying the promise based on [Lack of Consideration](#) in cases of:

1. [Promissory Estoppel](#): Detrimental Reliance;
2. Full Performance by one party: Unjust enrichment;
3. A Gratuitous Promise Performed by Actual or Constructive Delivery;
4. Saving Doctrine: Restatement §45: Commencement of Performance of a [Unilateral Contract](#).

### Good Faith and Best Efforts

The duty of [Good Faith and Best Efforts](#) is implied by law in every [Contract](#). An otherwise [Illusory Promise](#) where the obligation to perform is left to the discretion of one party, may be enforced if [Good Faith and Best Efforts](#) supply the [Consideration](#): Satisfaction Clauses, Requirements and Output [Contracts](#), Exclusive Agency [Contracts](#).

### Peppercorn Theory

Adequacy of bargained for [Consideration](#) cannot be used to invalidate a [Contract](#) for [Lack of Consideration](#): The courts do not look to the adequacy of the [Consideration](#).

### Past Consideration

- ◆ **Common Law:** A moral obligation is not sufficient [Consideration](#): No [Consideration](#) is exchanged if the [Legal Detriment](#) has already been rendered gratuitously.
- ◆ **Restatement Rule:** Past [Consideration](#) is binding if it involves a moral obligation to pay for past services rendered and the amount is not disproportionate to the services rendered.

### Modification of Existing Contract Duties:

- ◆ **Common Law:** [Modifications](#) require additional [Consideration](#) on both sides of the bargain.
- ◆ **Restatement Rule:** [Modifications](#) do not require additional [Consideration](#) for unperformed obligations where unforeseen circumstances arise; both parties agree to the [Modification](#); and it is fair.
- ◆ **UCC 2-209:** [Modifications](#) made in [Good Faith](#) do not require new [Consideration](#).

# UCC PROVISIONS

## Goods

### GO RAT MAD

Moveable property identified to the [Contract](#) at the time of formation.

The Universal Commercial Code (UCC) is the [Applicable Law](#) that controls [Contracts](#) for the sale of [Goods](#). The Common Law rules are applied to [Contracts](#) for that involve land and services.

### Predominant Purpose Rule

If a [Contract](#) involves a combination of [Goods](#) and services it is governed by the [UCC](#) when the predominant purpose of the [Contract](#) is for the sale of [Goods](#); and by the Common Law if [Goods](#) are incidental to providing a service.

### Crops and Timber

Anything severed from the land is classified as [Goods](#).

Things severable from the land are [Goods](#) when grown for the purpose of severance. Property in the ground must be identifiable and severable to be classified as [Goods](#).

### Warranty of Goods

Guarantees specific to the sale of [Goods](#):

1. **Express Representations:** By words, display, packaging: Purposely, knowingly, recklessly, or negligently making false representations is a [Breach](#) of an express warranty;
2. **Implied Warranty of Good Title:** Every seller warrants that good title will transfer to the buyer: Failure to deliver good title is a material [Breach](#);
3. **Implied Warranty of Fitness for a Particular Purpose:** Every seller warrants the [Goods](#) they sell to be fit for a particular purpose if they know the buyer's intended use at the time of the purchase;
4. **Implied Warranty of Merchantability:** Every [Merchant](#) warrants the [Goods](#) they sell are free from defects and fit for ordinary use.

# DEMO VERSION

In the fully functional book this page will display the Mnemonic, Rule and Definition from the link clicked.

(Press the back arrow key to go back; or use the bookmarks to navigate through the book)

- ◆ Bookmarks on the left will include all the legal terms covered in the book which have been omitted in the demo version.
- ◆ The fully functional printable book contains a mnemonic for every important legal term and covers every important common law rule and element necessary to pass law school exams based on the common law.
- ◆ The fully functional book will assist the user in remembering to discuss the important relevant areas of the law. Please note that further research into the area of the law being studied will be required in order to gain a complete understanding of each legal principle. Passing law school or bar essay exams requires the ability to write a logical paper that demonstrates legal knowledge by applying the correct rules of law to the facts.
  
- ◆ **Mnemonics and Definitions series:** Books are separately available for Criminal Law, Contract Law including the UCC, and Tort Law which includes Intentional Torts, Other Torts and Negligence.  
**Hyperlinked Series:** Cal Bar Essay Answers, Cal Bar Performance Test Answers, Federal Rules of Civil Procedure, Federal Rules of Evidence, Federal Judiciary, Corporations; Bouvier Law Dictionary - 1856; South Carolina Criminal Law and Procedure; South Carolina Civil Remedies and Procedure; South Carolina Evidence and Appeals.

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