

Tort Claims and Personal Liability Defense

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Tort Claims and Personal
Liability Defense

Overview

A tort claim can arrive without warning. A former business partner alleges fraud. A competitor files suit claiming tortious interference. A customer claims negligence caused injury on your property. Whatever the specific allegation, the immediate reality is the same: your assets, your reputation, and in many cases your personal financial future are at stake.

Cohen Cleary defends individuals and businesses against the full spectrum of tort claims in Massachusetts and Rhode Island, including negligence, defamation, tortious interference, conversion, and fraud. Defense-side tort litigation requires a fundamentally different posture than plaintiff-side work. The objective is not to build a case from scratch but to dismantle one: identifying weaknesses in the opposing theory of liability, challenging damages calculations, and positioning the matter for early resolution or a defense verdict at trial.

Defending Against Negligence, Fraud, and Business Tort Claims

Every tort defense begins with exposure assessment. Before discussing strategy, we quantify the realistic range of liability, map applicable insurance coverage, and identify the specific legal elements the plaintiff must prove. This initial analysis drives every decision that follows.

In negligence claims, Massachusetts applies a modified comparative negligence standard under M.G.L. c. 231, § 85. If the plaintiff bears more than 50% of the fault, recovery is barred entirely. We tell our clients that this threshold is not just a defense theory; it is the single most powerful tool in a Massachusetts negligence case, and building the comparative fault record starts at the answer stage, not at trial.

For defamation and business tort matters, the defense calculus shifts. Truth and privilege defenses require early preservation of communications and documentation. In cases where the underlying speech involves petitioning activity or matters of public concern, Massachusetts's anti-SLAPP statute, M.G.L. c. 231, § 59H, provides a mechanism to seek early dismissal and shift litigation costs to the plaintiff. Tortious interference claims demand proof of improper motive or means, and defendants who can demonstrate legitimate competitive activity often secure dismissal before discovery closes. Fraud claims carry a heightened pleading standard under Massachusetts Rule 9(b), requiring the plaintiff to allege specific facts rather than general accusations. We scrutinize complaints at the threshold, filing motions to dismiss where the pleading fails to meet that standard. Conversion claims, involving the wrongful exercise of dominion or control over another party's property, require the plaintiff to establish both ownership and an unauthorized taking or use. These claims often arise alongside contract disputes, and distinguishing tort liability from contractual remedies is a critical early defense decision.

Why Choose Cohen Cleary's Tort Claims and Personal Liability Defense Attorneys

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every matter is handled with careful preparation, clear communication, and a strategy tailored to the client's goals and the realities of the forum.

Clients choose Cohen Cleary because we deliver:

Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our tort defense work, this approach helps clients navigate personal and business liability exposure with clarity, efficiency, and confidence.

Insurance Coordination and the Limits of Carrier Defense

Defendants in tort cases frequently assume their insurance carrier will manage the entire defense. That assumption carries real risk. Carriers appoint defense counsel who report to the carrier, not to you. Coverage determinations can exclude specific claims or cap exposure well below the amount at stake. Reservation-of-rights letters can leave you uncertain whether your defense costs will ultimately be covered at all.

Common policies that may apply include commercial general liability (CGL) coverage, errors and omissions (E&O) policies for professional defendants, and directors and officers (D&O) insurance for corporate leadership. Each carries different coverage triggers, exclusions, and defense obligations. Cohen Cleary coordinates with carrier-appointed counsel when appropriate and provides independent defense representation when your interests and your carrier's interests diverge. Policy limits, coverage gaps, and excess exposure require someone whose sole

obligation is to the policyholder.

Tort Defense Across Massachusetts, Rhode Island, and New England

Cohen Cleary defends tort claims in Massachusetts Superior Court, District Court, and the Business Litigation Session, as well as Rhode Island Superior Court and District Court. Our offices in [Taunton](#) and [Plymouth](#) position us across southeastern Massachusetts, with active practice extending throughout New England for clients facing multi-jurisdictional exposure. Familiarity with local procedural requirements, motion practice tendencies, and case management orders across Bristol County, Plymouth County, and Norfolk County courts allows us to build defense strategies calibrated to the specific forum.

Schedule a Consultation with a Tort Defense Attorney

If you or your business has been named in a tort claim, early assessment of your exposure and defense options matters. Contact Cohen Cleary to discuss your situation with an attorney who understands defense-side litigation in Massachusetts and Rhode Island. Call our [Taunton](#) or [Plymouth](#) office to get started.

Frequently Asked Questions About Tort and Negligence Defense

What types of tort claims does Cohen Cleary defend against?

We defend individuals and businesses against negligence claims, defamation and libel or slander actions, tortious interference with business relationships, fraud allegations, conversion claims, and other intentional and unintentional tort actions in Massachusetts and Rhode Island.

How does comparative negligence work in Massachusetts tort cases?

Massachusetts follows a modified comparative negligence rule. Under M.G.L. c. 231, § 85, a plaintiff who is more than 50% at fault for the incident cannot recover damages. If the plaintiff is 50% or less at fault, any damages award is reduced by the plaintiff's percentage of fault. Building the comparative fault defense early in litigation is critical to protecting your position.

Will my insurance company handle my tort defense?

Your carrier may appoint defense counsel and fund the defense, but carrier-appointed attorneys have obligations to the insurer as well. If the carrier issues a reservation of rights, or if the claim exceeds your policy limits, your personal assets may be at risk. Independent counsel ensures your interests are represented without divided loyalty.

What is the statute of limitations for tort claims in Massachusetts and Rhode Island?

Most tort claims in Massachusetts carry a three-year statute of limitations under M.G.L. c. 260, § 2A, running from the date of the incident or, in some cases, from the date the injury was discovered. In Rhode Island, the general tort statute of limitations is also three years under R.I. Gen. Laws § 9-1-14. Certain claims, including defamation, have shorter filing deadlines in both states. Identifying and asserting limitations defenses early can result in full dismissal of stale

claims.