



The Right to Civil Defense in Torts

Alan Calnan

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According to conventional wisdom, the tort system is a hallowed place where injured victims receive their venerable day in court so they can right the wrongs committed against them. Unfortunately, this assumption is not necessarily true. When first filed, every tort action actually begins as an aggressive, state-assisted assault upon the liberty of the accused. Until that action is backed by proof, it operates much like an unjustified criminal prosecution, wrongfully infringing the due process rights of those it places in legal jeopardy.

The Right to Civil Defense in Torts explores this previously hidden but politically critical side of torts. Drawing upon a unique mixture of historical, doctrinal, statutory, and constitutional sources, *Civil Defense* reaches the explosive conclusion that civil defendants enjoy a fundamental right against tort litigation so long as it remains unsubstantiated. While this right to civil defense is honored in some tort suits, it is routinely violated in negligence cases, where plaintiffs may proceed without establishing probable cause for their actions. *Civil Defense* solves this problem by proposing a revolutionary prescreening procedure in all negligence litigation. By simultaneously exposing and strengthening torts' defensive protections, this book promises to discredit the prevailing one-dimensional conception of torts while laying the groundwork for a more robust, balanced, and multifaceted approach.

Given the breadth of its analysis, *Civil Defense* should appeal to policymakers, academics, graduate and undergraduate students, and anyone interested in legal history, political theory, moral philosophy, and constitutional jurisprudence.

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