

# NEW MEXICO INJURY ATTORNEY BLOG

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ATTORNEYS AT LAW

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## **Intentional Torts and the Judgment Proof Defendant**

People are often injured for the intentional torts of others. The most common intentional tort is battery where one person intentionally injures another. We often get calls on these cases. The most immediate question is can the injured person sue for personal injury.

The answer to that question is yes. Perhaps the more critical question is should the person sue? This is the question an experienced personal injury attorney will first ask. The answer will depend on a variety of circumstances, the most important of which is whether or not there is any possibility of recovering money through a lawsuit.

More often than not those individuals prone to commit battery on others are not as prone to carry insurance. And even if they did, most insurance policies will exclude intentional battery that results in injuries. Likewise, there is a high probability that the person will have no assets or financial resources against which to enforce a judgment.

As such, you may have a very good lawsuit on the basis of liability and damages but have little or no chance of recovery through a personal injury lawsuit. In other words, you may be able to clearly prove that you suffered serious injuries and that the other person caused your injuries but there is no money at the end of the "successful litigation." This is what personal injury lawyers refer to as a "judgment proof" defendant.

Unfortunately, though sympathetic to those intentionally injured by others, most lawyers are highly reluctant to sue on principle. As such, the lawyer will be looking for possible sources of recovery.

Depending on the circumstances, there may be a possible recovery from employers on the basis of respondeat superior, negligent hiring, or negligent training. There may also be premises liability actions against property owners or managers for failure to protect tenants or visitors.

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There may be other possible means or recovery as well depending on the circumstances. Each case must be carefully evaluated at the outset of the case. Otherwise, the litigation process can be long, expensive and in the end extremely frustrating when the plaintiff is awarded a judgment that cannot be collected.

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