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**HOUSE BILL 389**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Joseph M Thompson**

**AN ACT**

**RELATING TO CIVIL ACTIONS; LIMITING ACTIONS IN TORT.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. LIMITATION OF ACTION--PRIMA FACIE TORT. --**

**A. A prima facie tort shall not be recognized as a cause of action in the courts of New Mexico.**

**B. For the purposes of this section, a "prima facie tort" is a claim by a plaintiff for damages on the basis that the defendant intended to cause the plaintiff harm and succeeded in doing so. The elements of a prima facie tort are as follows:**

**(1) the defendant intentionally acted or failed to act;**

**(2) the defendant intended that the act or failure to act would cause harm to the plaintiff or knew with**

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1 certainty that the act or failure to act would cause harm to  
2 the plaintiff;

3 (3) the defendant's act or failure to act is  
4 the proximate cause of the plaintiff's harm; and

5 (4) the defendant's conduct was not  
6 justifiable under the circumstances.

7 C. This section does not limit any other action in  
8 tort.