Intentional Infliction of Emotional Distress

In general, the tort of intentional infliction of emotional distress involves some kind of conduct that is so terrible that it causes severe emotional trauma in the victim. In such cases, the victim can recover damages from the person causing the emotional distress.

Not all offensive conduct qualifies as intentional infliction of emotional distress, however. People in society must necessarily deal with a certain level of rude or offensive conduct. When the conduct rises to a truly reprehensible level, though, recovery for the resulting emotional trauma becomes available.

Elements

While some states' specific rules for intentional infliction differ, the following elements are fairly common:

• Extreme or outrageous conduct that
• Intentionally or recklessly causes
• Severe emotional distress (and possible also bodily harm)

If the situation satisfies all of the elements above, the person behaving in the extreme and outrageous manner is liable for both the severe emotional distress and the bodily harm that results from the stress (a miscarriage, for example).

In addition, parties may sometimes recover for emotional distress under circumstances where the extreme and outrageous conduct wasn’t even directed at them. Typically, this kind of claim involves extreme or outrageous conduct towards the claimant’s family member while in the claimant’s presence. This type of claim varies even more widely between the states than the basic intentional infliction tort, but here are some of the general elements of the injury:

• Extreme and outrageous conduct
• Directed at a third person that
• Intentionally or recklessly causes
• Severe emotional distress
• To a member of the third person’s immediate family (whether or not bodily harm occurs), or
• To any other person present if bodily harm occurs

Extreme and Outrageous Conduct

Clearly, one of the most important issues in any claim for intentional infliction of emotional distress is defining what exactly constitutes extreme and outrageous conduct. Without extreme and outrageous conduct, the injured party can’t make a claim for intentional infliction even if the actor behaved with malice and/or harmful intent.

Extreme and outrageous conduct goes beyond merely the malicious, harmful or offensive. People must have a certain level of thick skin and possess the ability to weather ordinary rude or obnoxious behavior.

In order to rise to the level of extreme and outrageous, the conduct must exceed all possible bounds of decency. Normal insults or rudeness don’t normally qualify as extreme and outrageous conduct, although they can rise to that level if there is some kind of special relationship between the parties.

In addition, ordinary insults or actions can constitute extreme and outrageous behavior if the actor knows that the victim is particularly susceptible to emotional distress because of some physical or mental condition or abnormality. For example, if Adam knows that Barbara is intensely claustrophobic and intentionally locks her in a closet to scare her, she could possibly recover for intentional infliction of emotional distress.
Exercising a legal right can never amount to intentional infliction of emotional distress, however even if the behavior does cause some severe emotional trauma. If a landlord properly initiates eviction proceedings against a sick and destitute widow who has not paid rent in a year, his actions won’t constitute intentional infliction of emotional distress even if the widow does in fact suffer an extreme emotional reaction. Since the landlord was only exercising his legal rights, his behavior is most likely privileged.

In the end, a jury makes the final decision on whether the conduct in question rises to the level of extreme and outrageous.

Intent/Recklessness

In addition to acting in an extreme an outrageous manner, the actor must act with intent or recklessness. In other words, the actor must intend to cause severe emotional distress or know that severe emotional distress is likely to occur. The actor can also become liable for intentional infliction if they behave with deliberate disregard to the high possibility that severe emotional distress will occur.

For example, if someone receives a text message from their significant other while at a friend's house, becomes angry, and smashes the urn containing their friend's mother's ashes, the friend could possibly win an intentional infliction lawsuit under the theory of reckless disregard.

Severe Emotional Distress

Emotional distress can take many forms. Many unpleasant emotions qualify as emotional distress, including embarrassment, shame, fright and grief.

In order to satisfy the elements of an intentional infliction claim, however, the emotional distress in response to extreme and outrageous behavior must reach a “severe” level. The exact definition of severe emotional distress is vague, and plaintiffs must prove to a jury that the emotional distress they experienced reached a sufficient level of severity to justify an award for intentional infliction.

Some guidelines do exist to help determine whether an emotional disturbance constitutes severe emotional distress. When extreme and outrageous conduct causes suffering such that no reasonable person should have to endure it, a jury will likely hold that the experience reached the level of severe emotional distress.

The intensity and duration of the emotional distress also contribute to its severity. The longer the emotional disturbance continues, the more likely it is to constitute severe emotional distress.

A plaintiff must use evidence to demonstrate their emotional distress to a jury. For example, a plaintiff can use persistent anxiety and paranoia resulting from a Halloween prank gone bad to show that they suffered extreme emotional distress as a result of the conduct.

Sometimes the very nature of the conduct in question will suffice to demonstrate that the victim suffered severe emotional distress. If behavior is particularly disturbing, the plaintiff may not have to offer much evidence to support their claims; the behavior itself is so reprehensible that the emotional distress is almost assumed.

Bodily harm also acts as an indicator that severe emotional distress has occurred. Ulcers or headaches, for example, can show that the plaintiff has experienced severe emotional distress that has revealed itself through these physical symptoms.
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