

A businessman operates a collection agency. He was trying to collect a \$400 bill for medical services rendered to a young woman by a doctor.

The businessman went to the young woman's house. When the young woman's mother answered the door, the businessman told her that he was there to collect a bill owed by the young woman. The mother told the businessman that because of the young woman's illness, she had been unemployed for six months, that she was still ill and unable to work, and that she would pay the bill as soon as she could.

The businessman, in a loud voice, demanded to see the young woman and said that if he did not receive payment immediately, he would file a criminal complaint charging her with fraud. The young woman, who was severely distressed after hearing the conversation, came to the door. The businessman, in a loud voice, repeated his demand for immediate payment and his threat to use criminal process.

If the young woman asserts a claim against the businessman based on infliction of emotional distress, is she likely to prevail?

- A. No, because the businessman's conduct created no risk of physical harm to the young woman.
- B. No, unless she suffered physical harm as a result of the businessman's conduct.
- C. Yes, because she suffered severe emotional distress as a result of the businessman's conduct.
- D. Yes, unless the bill for medical services was valid and past due.

Explanation:

For **intentional infliction of emotional distress** (IIED), the plaintiff must prove that the defendant:

behaved in an extreme and outrageous manner

intended to cause the plaintiff severe emotional distress OR recklessly disregarded the risk of causing such distress *and*

caused the plaintiff severe emotional distress.

Abusing a position of authority amounts to **extreme and outrageous conduct** when the conduct goes **far beyond what is necessary** to exercise that authority. For example, a creditor abuses his/her position of authority by threatening a debtor with **unjustified criminal prosecution** or by contacting the debtor's employer or neighbors.

Here, the businessman (creditor) abused his position of authority when he unjustifiably threatened to file a criminal fraud complaint against the young woman for merely failing to pay a bill (extreme and outrageous conduct). In doing so, he was indifferent to the obvious risk that the threat would cause her severe emotional distress (recklessness). And since the young woman suffered such distress after hearing the businessman's threat, she will likely prevail on an IIED claim.

(Choice A) Risk of physical harm is an element of the **zone-of-danger theory** for *negligent* infliction of emotional distress—not IIED. Therefore, the young woman can prove IIED even if the businessman's conduct created no risk of physical harm.

(Choice B) IIED compensates persons who suffered severe emotional distress even when there is no proof of physical harm. As a result, the young woman's lack of physical harm will not affect the viability of her IIED claim.

(Choice D) Even if the bill was valid and past due, the businessman could only use *reasonable* means to collect that debt. But since the businessman engaged in extreme and outrageous conduct that recklessly caused the young woman severe emotional distress, he is liable for IIED.

Educational objective:

Intentional infliction of emotional distress (IIED) requires proof that the defendant engaged in extreme and outrageous conduct—eg, abusing a position of authority by going far beyond what is necessary to exercise that authority.

References

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 46 cmts. d–e (2012) (intentional or reckless infliction of emotional distress).

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Abuse of authority

Position of authority = power to affect interests

