

A man owned a much-loved cat, worth about \$25, that frequently trespassed on a neighbor's property. The neighbor repeatedly asked the man to keep the cat on his own property, but the trespasses did not diminish. Aware of the man's long-standing attachment to the cat, the neighbor killed the cat with a shotgun in full view of the man. As a consequence, the man suffered great emotional distress.

In an action by the man against the neighbor, which of the following claims would be likely to result in the greatest recovery of compensatory damages?

- A. Battery.
- B. Conversion.
- C. Intentional infliction of emotional distress.
- D. Trespass to a chattel.

Explanation:

Extreme and outrageous conduct

Flagrant indecency

Exploiting known & special vulnerability

Abusing authority

Repeated harassment

Mnemonic: **FEAR**

Compensatory damages are awarded as compensation for the plaintiff's **actual harm** (eg, medical bills, lost wages, repair costs). Generally, plaintiffs must prove bodily harm to receive compensation for emotional harm. However, **intentional infliction of emotional distress** (IIED) claims allow plaintiffs to recover compensatory damages for emotional distress *without* proof of bodily harm if they show that the defendant:

engaged in **extreme and outrageous conduct** (eg, conduct affecting the plaintiff's known and **special vulnerability**) *and*

intentionally or recklessly caused the plaintiff **severe emotional distress**.

Here, the neighbor knew of the man's long-standing attachment to the cat (special vulnerability) when he shot it in full view of the man (extreme and outrageous conduct). In doing so, the neighbor either knew his conduct would harm the man (intent) *or* disregarded the risk of harm (recklessness). And since that conduct caused the man great emotional harm (severe emotional distress), he can recover compensatory damages for that mental distress—an amount greater than the value of the cat—without proof of bodily harm.

(Choice A) Battery claims compensate plaintiffs for bodily harm. But since the neighbor did not cause harmful or offensive contact with the man, he cannot recover damages for battery.

(Choice B) Conversion claims compensate plaintiffs for the fair market value of their dispossessed (ie, lost) chattels. Although the man can prevail on a conversion claim because the neighbor shot his cat (dispossession of chattel), he can only recover the fair market value of the cat—\$25.

(Choice D) Trespass to chattel claims compensate plaintiffs for actual harm to their chattel. Here, the neighbor committed trespass to chattel when he killed the man's cat (harm to chattel). But since the cat was worth \$25 and is now worth nothing, the man can only recover \$25.

Educational objective:

Intentional infliction of emotional distress (IIED) compensates a plaintiff for emotional harm—even without proof of bodily harm—if he/she can prove that the defendant (1)

engaged in extreme and outrageous conduct and (2) intentionally or recklessly caused the plaintiff severe emotional distress.

References

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 46 (Am. Law Inst. 2012) (intentional or reckless infliction of emotional harm).

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