

A wealthy elderly woman was repeatedly harassed by a debt collector over a period of two months. The debt collector was trying to collect a large debt owed to his client by the woman's impoverished adult son.

Although the debt collector knew that the woman was not legally responsible for the son's debt, he called the woman multiple times each day and threatened to destroy her credit. He also told her that he knew where she lived and that he was going to withdraw the money from her bank account. As a result, the woman suffered great mental anguish, was unable to sleep, and ultimately suffered serious health consequences.

Which of the following conclusions would best support a claim by the woman against the debt collector for intentional infliction of emotional distress?

- A. The debt collector could reasonably have foreseen that the calls and threats might cause harm to the woman's health. (4%)
- B. The debt collector's conduct caused the woman to fear that he was someday going to physically attack her. (1%)
- C. The debt collector's conduct failed to comply with industry custom. (0%)
- D. The debt collector's conduct was extreme and outrageous. (94%)

Incorrect

Correct answer D

94% Answered correctly

01 min, 24 secs Time Spent

2023 Version

## Explanation:

### Intentional infliction of emotional distress

<b>Intent</b>	Intent (purpose or knowledge) to cause severe emotional distress <i>or</i> Reckless disregard for risk of causing such distress
<b>Conduct</b>	Extreme & outrageous—exceeding bounds of human decency & unacceptable in civilized society
<b>Harm</b>	Severe emotional distress—emotional distress beyond what reasonable person could endure

A defendant is liable for **intentional infliction of emotional distress** (IIED) when he/she: intends to cause the plaintiff severe emotional distress OR recklessly disregards the obvious risk of causing such distress engages in **extreme and outrageous conduct** *and* causes the plaintiff severe emotional harm.

Conduct is considered extreme and outrageous if, among other things, it **exceeds the possible limits of human decency** to be entirely intolerable in a civilized society.

Here, the debt collector called the woman multiple times each day, threatened to destroy her credit and to withdraw money from her bank account, and told her he knew where she lived. In doing so, he was at least indifferent to the obvious risk (recklessness) that his conduct would cause the woman severe emotional distress. And she suffered great mental anguish, inability to sleep, and serious health consequences as a result. Therefore, the conclusion that would best support the woman's IIED claim is that the debt collector's conduct was extreme and outrageous.

**(Choice A)** The fact that the debt collector could reasonably have foreseen that the calls and threats might cause harm to the woman's health would support a claim for *negligent infliction of emotional distress*—not *intentional* infliction of emotional distress.

**(Choice B)** To recover for IIED, the woman must show that the debt collector's extreme and outrageous conduct caused her to suffer severe emotional distress. The woman need not show that the debt collector's conduct caused her to fear that he would someday physically attack her.

**(Choice C)** Failure to comply with industry custom does not establish that the debt collector's conduct was extreme and outrageous or satisfy any other element of IIED.

### Educational objective:

To recover for intentional infliction of emotional distress, the plaintiff must prove that the defendant intentionally or recklessly caused the plaintiff severe emotional distress by acting in an extreme and outrageous manner.

**References**

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

Copyright © 2021 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.