

An elderly woman had no living relatives or close friends. A much younger man who lived nearby befriended the woman in order to convince her to leave her house and other property to him. Shortly thereafter, a new family moved next door to the woman. The woman developed a close friendship with the family's 10-year-old child. When the woman later refused to execute a will in the man's favor, he blamed the child. He decided to cause the woman severe emotional distress by molesting the child in the woman's home while she was away. The man did so and told the woman about it. She suffered severe emotional distress that caused her to suffer a heart attack.

The woman sued the man for intentional infliction of emotional distress.

Will the woman be likely to prevail in that action?

- A. No, because the woman was not present when the man molested the child.
- B. No, because the woman was not related to the child.
- C. Yes, because the man, in molesting the child, acted with the purpose of causing the woman severe emotional distress.
- D. Yes, because the woman suffered bodily injury.

## Explanation:

**Intentional infliction of emotional distress** (IIED) requires proof that the defendant was at least **reckless** as to the risk that his/her extreme and outrageous conduct would cause the plaintiff severe emotional distress. To establish this element in cases where the plaintiff's distress stems from conduct that **physically or emotionally harmed a third party**, the plaintiff **must generally prove** the following facts:

The plaintiff **contemporaneously perceived** (ie, saw or overheard) the defendant's conduct.

The plaintiff was a **close relative** (ie, immediate family member) of the harmed third party. The defendant **knew** that the plaintiff was present and closely related to the harmed third party.

However, the plaintiff **need not prove** the above facts if the defendant's **design or purpose** was to **cause severe emotional distress** to the plaintiff.

Here, the man molested the child (a third party) in the woman's home, which caused the woman to suffer severe emotional distress. The woman was neither present when the man molested the child (no contemporaneous perception) nor related to the child, which ordinarily would defeat her claim for IIED. But since the man acted with the *purpose* of causing the woman severe emotional distress, she will likely prevail **(Choices A & B)**.

**(Choice D)** Severe emotional distress is often accompanied by bodily injury (eg, heart attack). Although this helps prove that the emotional distress is genuine, recovery for IIED is not limited to cases in which bodily injury occurs.

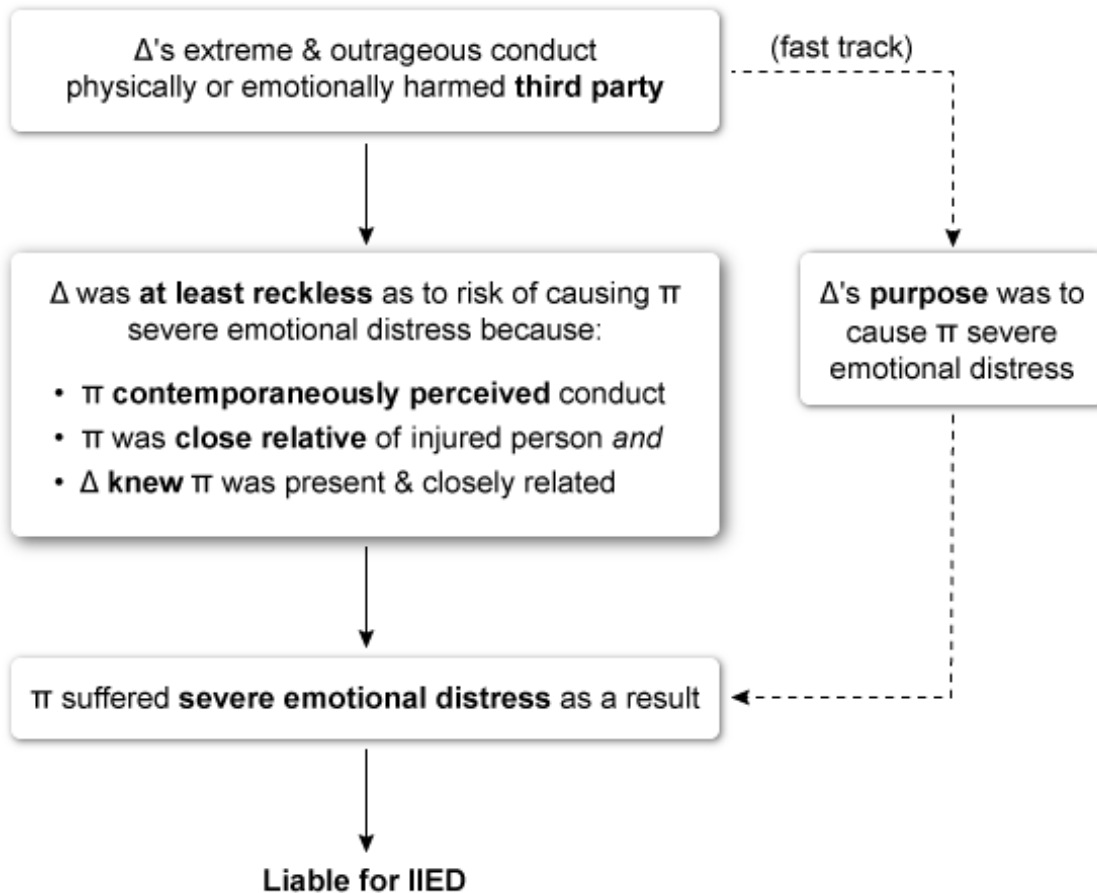
## Educational objective:

A defendant whose extreme and outrageous conduct has harmed a third party may be liable for intentional infliction of emotional distress if the defendant acted with the purpose of inflicting (and did inflict) severe emotional distress on the plaintiff—regardless of whether the plaintiff witnessed the conduct or was closely related to the third party.

## References

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 46, cmt. m (Am. Law Inst. 2012) (emotional harm caused by harm to a third person).

## IIED liability for emotional distress caused by harm to third party



Δ = Defendant; π = Plaintiff;  
IIED = Intentional infliction of emotional distress.