

A trucking company employed nine salaried dispatchers to ensure that its truck fleet operated according to schedule. Two years ago, as a cost-saving measure, the company reduced the number of dispatchers to six, and each of the remaining dispatchers had to work substantially longer hours.

One of the remaining dispatchers complained to his supervisor that the stress and fatigue associated with the new working conditions were too much for him to handle. The supervisor told the dispatcher that he should quit if he couldn't handle the increased hours.

Over the next three months, the dispatcher continued to complain about the working conditions, to no effect. The dispatcher suffered severe emotional distress from the working conditions, but no physical injury. He eventually was hospitalized and had to miss several months of work as a result of the emotional distress.

The dispatcher sued the trucking company for negligence. The company has moved for summary judgment, based on the undisputed facts set out above. Assume that there is no applicable workers' compensation statute.

How should the court rule on the motion?

- A. Deny the motion, because the jury must determine the extent of the emotional distress suffered by the dispatcher.
- B. Deny the motion, because there is evidence from which a jury could reasonably conclude that the supervisor failed to act with ordinary care.
- C. Grant the motion, because the dispatcher suffered no physical injury.
- D. Grant the motion, because there is no evidence from which a jury could reasonably conclude that the supervisor acted carelessly with respect to the dispatcher's emotional well-being.

Incorrect

Correct answer C

Collecting Statistics

03 mins, 17 secsTime Spent

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Explanation:

Negligent infliction of emotional distress

Theories of recovery	Required elements
Zone of danger	Defendant's negligence put plaintiff in danger of immediate bodily harm Danger caused plaintiff serious emotional distress
Bystander	Defendant negligently injured plaintiff's close relative Plaintiff contemporaneously perceived that event Event caused plaintiff serious emotional distress
Special situations	Defendant negligently: delivered erroneous announcement of death or illness mishandled corpse or bodily remains contaminated food with repulsive foreign object Caused plaintiff serious emotional distress

A court should grant a motion for summary judgment when the evidence is legally insufficient for a reasonable jury to find in the nonmovant's favor. A **negligence** claim generally **requires** evidence that the plaintiff suffered **physical injury or property damage**. The plaintiff may then recover damages for any accompanying emotional distress. However, the plaintiff **cannot recover** damages for **purely emotional distress unless** the plaintiff establishes **negligent infliction of emotional distress (NIED)** under any of the following theories:

Zone of danger – when the defendant negligently placed the plaintiff in danger of immediate bodily harm

Bystander – when the defendant negligently caused serious bodily injury to a close relative of the plaintiff and the plaintiff contemporaneously perceived that event

Special situations – when the defendant negligently delivered an erroneous announcement of death or illness, mishandled a loved one's corpse or remains, or contaminated food with a repulsive foreign object

Here, the dispatcher suffered only severe emotional distress from his company's working conditions. As a result, the dispatcher cannot recover for **negligence**. Additionally, none of the NIED theories apply because the company did not (1) place the dispatcher in danger of immediate bodily harm, (2) cause serious bodily injury to a close relative of the dispatcher,

or (3) cause a special situation to exist. Therefore, the court should grant the company's motion for summary judgment.

(Choice A) The jury does not need to determine the extent of the dispatcher's emotional distress because he cannot recover for negligence or NIED.

(Choices B & D) A jury could reasonably conclude that the supervisor failed to act with ordinary care (ie, acted carelessly) regarding the dispatcher's emotional well-being by ignoring his complaints about the stress and fatigue of the new working conditions. Nevertheless, the dispatcher cannot recover in negligence for pure emotional distress, so the supervisor's failure to act with ordinary care is irrelevant.

Educational objective:

A negligence claim generally requires proof that the plaintiff suffered physical injury or property damage. The plaintiff cannot recover damages for purely emotional distress unless the plaintiff can establish negligent infliction of emotional distress.

References

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 47 (Am. Law Inst. 2012) (explaining the zone-of-danger and special-situations theories of negligent infliction of emotional distress).

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 48 (Am. Law Inst. 2012) (explaining the bystander theory of negligent infliction of emotional distress).

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 4 (Am. Law Inst. 2010) (setting forth that negligence generally requires proof of physical harm).

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