

A real estate developer was trying to purchase land on which he intended to build a large commercial development. An elderly widow had rejected all of the developer's offers to buy her ancestral home, where she had lived all her life and which was located in the middle of the developer's planned development. Finally, the developer offered her \$250,000. He told her that it was his last offer and that if she rejected it, state law authorized him to have her property condemned.

The widow then consulted her nephew, a law student, who researched the question and advised her that the developer had no power of condemnation under state law. The widow had been frightened by the developer's threat and was outraged when she learned that the developer had lied to her.

If the widow sues the developer for emotional distress damages, will she prevail?

- A. No, because it was not the developer's purpose to cause emotional distress.
- B. No, because the widow did not suffer emotional distress that was severe.
- C. Yes, because the developer's action was extreme and outrageous.
- D. Yes, because the widow was frightened and outraged.

Explanation:

For **intentional infliction of emotional distress** (IIED), the plaintiff must prove that the defendant intentionally or recklessly caused the plaintiff **severe emotional distress**—ie, distress that no reasonable person could be expected to endure—through extreme and outrageous conduct. The severity of the emotional distress depends on:

the **intensity and duration** of the distress

the **egregiousness** of the defendant's conduct *and*

the presence of **bodily harm**.

Here, the developer's threat to condemn the widow's ancestral home may have been reckless and possibly was extreme and outrageous. However, there is no evidence that her fright and outrage were intense or prolonged (eg, had she been scared for months, not moments) or that she suffered bodily harm (eg, had she experienced a heart attack upon hearing the threat). Therefore, the widow's emotional distress was not *severe* and her claim will fail.

(Choice A) IIED requires *intent* (ie, [purpose or knowledge](#)) to cause severe emotional distress OR *reckless* disregard of the risk of causing that distress. Therefore, even if it was not the developer's purpose to cause the widow severe emotional distress, he could still be liable for IIED if he knew of or recklessly ignored that risk.

(Choice C) Even if the developer's conduct was extreme and outrageous, the widow will not recover emotional distress damages since that conduct did not cause her severe emotional distress.

(Choice D) Some degree of emotional distress (eg, temporary fright or anger) is expected as a part of life, so IIED requires that the plaintiff's emotional distress be *severe* (and the result of extreme and outrageous conduct). Here, though the widow was frightened and outraged, her emotional distress was not severe.

Educational objective:

Intentional infliction of emotional distress requires proof of severe emotional distress—ie, emotional distress beyond what a reasonable person could be expected to endure. The severity of emotional distress depends on (1) its intensity and duration, (2) the egregiousness of the defendant's conduct, and (3) the presence of bodily harm.

References

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

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Severity of emotional distress

