

Hypothetical 1

As a practical joke, *A* falsely tells *B* that his wife has been badly injured in an accident, and is in the hospital with both legs broken. *B* suffers severe emotional distress.

Hypothetical 2

A is invited to a swimming party at an exclusive resort. *B* gives him a bathing suit which he knows will dissolve in water. It does dissolve while he is swimming, leaving *A* naked in the presence of numerous persons, all of whom he has just met. *A* suffers extreme embarrassment, shame, and humiliation.

Hypothetical 3

A dials a telephone number but is unable to get through. She calls the operator *B* and gets into an altercation in which she calls *B* a damned loser, a damned liar, and says that if she were there she would break his damned neck. *B* suffers severe emotional distress, broods over the incident, and is unable to sleep.

Hypothetical 4

A, a creditor, seeking to collect a debt, calls on *B* and demands payment in a rude and insolent manner. When *B* says that he cannot pay, *A* calls *B* a deadbeat, and says that he will never trust *B* again.

Hypothetical 5

In the presence of *A*, a bystander, *B* quarrels violently with *C*, draws a pistol, and threatens to kill *C*. *B* knows that *A* is pregnant, and that it is highly probable that his conduct will cause severe emotional distress to *A*. *A* suffers severe emotional distress, which results in a miscarriage.

Hypothetical 6

Same facts as above, except *A* is *C*'s wife.

Hypothetical 7

A and her child are crossing down the street when *B* drives by in his car and narrowly avoids running over *A*. Instead he hits the child.

A. Intentional Infliction of Emotional Distress

1. ∂ intended to cause the π or recklessly causes the π severe emotional distress;
2. ∂ engaged in extreme and outrageous conduct;
3. π actually and justifiably suffered severe emotional distress, *i.e.*, a reasonable person would have also suffered severe emotional distress; and
4. ∂ 's conduct was a cause in fact of the aforesaid emotional distress.

See also the rules from *Roth v. Islamic Rep. of Iran* for the scenario where the ∂ 's conduct is directed at someone other than the π .

B. Negligent Infliction of Emotional Distress—Risk of Physical Injury to π and Certain Other Special Cases—Direct Victim

1. DUTY.
 - (a) ∂ must owe a legal duty to π . Yes, unless a no-duty rule applies.
 - (b) Standard of care—usually reasonable care.
2. BREACH: ∂ breached the standard of care and either
 - (a) placed the π at risk of immediate physical bodily harm and π was aware of that risk and feared for their own safety; or
 - (b) in some special cases there need not be a risk of physical harm to the π but the case must involve
 - (i) a special relationship (*e.g.* *Burgess v. Superior Court*), (ii) the mishandling of the deceased (often couched as involving a special relationship), or
 - (iii) the erroneous notice of death of a close relative (*e.g.* *Johnson v. State*).

3. LCH: π actually and justifiably suffered serious emotional distress, *i.e.*, a reasonable person would have also suffered serious emotional distress, and either (depending on the jurisdiction):
 - (a) Physical impact [nearly obsolete and certainly inapplicable under 2(b)]; or
 - (b) Physical manifestation [serves as objective proof of emotional harm]; or
 - (c) Emotional distress alone suffices as a legally cognizable harm [RST 3d].
4. CIF: ∂ 's negligence was a cause in fact of π 's emotional distress.
5. SOR: π 's emotional distress falls within the scope of the risk.

C. Negligent Infliction of Emotional Distress—Sudden and Serious Bodily Injury to 3d Person—Closely Related Bystander

1. ∂ committed a tort of negligence to a 3d person, that is to say:
 - (a) ∂ owed a duty to 3d person, breach, LCH, CIF, and SOR; and
 - (b) The LCH the 3d person suffered must be a sudden and serious bodily injury, not just a regular LCH.
2. π is closely related to the injured 3d person, perceives the injury-causing event contemporaneously (or soon thereafter, in some jurisdictions), and (in some jurisdictions) is present at the scene.
3. π LCH: π actually and justifiably suffered serious emotional distress, *i.e.*, a reasonable person would have also suffered serious emotional distress, and either (depending on the jurisdiction):
 - (a) Physical manifestation [serves as objective proof of emotional harm]; or
 - (b) Emotional distress alone suffices as a legally cognizable harm [RST 3d].
4. π CIF: ∂ 's negligence was a cause in fact of π 's emotional distress.
5. π SOR: π 's emotional distress falls within the scope of the risk.