

3.30F INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Approved 11/99)

The plaintiff is (also) bringing an action based on intentional infliction of emotional distress allegedly caused by the defendant.¹ To recover, plaintiff must establish the following elements:

First, the plaintiff must prove that the defendant acted intentionally or recklessly. For an intentional act to result in liability, the defendant must intend both to do the act and to produce emotional distress. For a reckless act to result in liability, a defendant must act in deliberate disregard of a high degree of probability that emotional distress will follow.

Second, the defendant's conduct must be extreme and outrageous. The conduct must be so outrageous in character and so extreme in degree as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community. The liability clearly does not extend to mere insults, indignities, threats, annoyances, petty oppressions or other trivialities.

Third, the defendant's actions must have been the proximate cause of plaintiff's emotional distress.²

¹*Buckley v. Trenton Sav. Fund Soc'y*, 111 N.J. 355, 365-368 (1988).

²Proximate cause should also be charged (Charge 6.10).

Fourth, the emotional distress suffered by plaintiff must be so severe that no reasonable person could be expected to endure such distress.³ Defendant's conduct must be sufficiently severe to cause genuine and substantial emotional distress or mental harm to the average person.⁴ This average person must be one similarly situated to the plaintiff.⁵ The plaintiff cannot recover for his/her emotional distress if that emotional distress would not have been experienced by an average person.⁶

³*Taylor v. Metzger*, 152 N.J. 490 (1998), quoting *Buckley* at 366. *Decker v. Princeton Packet, Inc.*, 116 N.J. 418, 431, (1989).

⁴*Taylor v. Metzger*, 152 N.J. 490, quoting *Decker*, 116 N.J. at 430.

⁵*Taylor*, 152 N.J. at 516.

⁶*Decker*, 116 N.J. at 431.