800.60 INTENTIONAL OR RECKLESS INFLICTION OF SEVERE EMOTIONAL DISTRESS.[1]

The (*state number*) issue reads:

"Did the defendant [intentionally] [recklessly] cause severe emotional distress to the plaintiff?"

On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, the following three things:[2]

First, that the defendant engaged in extreme and outrageous conduct.[3] Conduct is "extreme and outrageous" when it exceeds all bounds usually tolerated by decent society.[4]

Second, that the defendant's conduct was [intended[5] to cause] [recklessly indifferent to the likelihood it would cause] severe emotional distress to the plaintiff; and

And third, that defendant's conduct in fact caused severe emotional distress to the plaintiff.

"Severe emotional distress" means any emotional or mental disorder, such as [neurosis] [psychosis] [chronic depression] [phobia] [any type of severe and disabling condition which may be generally recognized and diagnosed by professionals trained to do so].[6] [Mere temporary fright or anxiety, disappointment or regret is not severe emotional distress.[7]]

Finally, as to this issue on which the plaintiff has the burden of proof, if you find, by the greater weight of the evidence, that the defendant engaged in extreme and outrageous conduct which was [intended to cause] [recklessly indifferent to the likelihood it would cause] severe emotional distress to the

plaintiff and which did cause severe emotional distress to the plaintiff, then it would be your duty to answer this issue "Yes" in favor of the plaintiff.

If, on the other hand, you fail to so find, then it would be your duty to answer this issue "No" in favor of the defendant.

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1. For negligent infliction of emotional distress, *see* N.C.P.I.-Civil 102.84.

2. *Dickens v. Puryear*, 302 N.C. 437, 276 S.E.2d 325 (1981).

3. Whether the defendant's conduct is "extreme and outrageous" is initially a question of law for the trial court. *Lenins v. K-Mart Corporation*, 98 N.C. App. 590, 599, 391 S.E.2d 843, 848 (1990); *Murray v. Justice*, 96 N.C. App. 169, 385 S.E.2d 195 (1989); *Johnson v. Bollinger*, 86 N.C. App. 1, 356 S.E.2d 378 (1987). "If the court determines that it may be reasonably so regarded, then it is for the jury to decide whether, under the facts of a particular case, the defendants' conduct . . . was in fact extreme and outrageous." *Briggs v. Rosenthal*, 73 N.C. App. 672, 676, 327 S.E.2d 308, 311, *cert. denied*, 314 N.C. 114, 332 S.E.2d 479 (1985); *Johnson*, *supra*, 86 N.C. App. at 6, 356 S.E.2d at 381-382.

4. *Stanback v. Stanback*, 297 N.C. 181, 196, 254 S.E.2d 611, 622 (1979).

5. For an instruction on intent, *see* N.C.P.I.-Civil 101.46.

6. *Johnson v. Ruark Obstetrics and Gynecology Associates, P.A.*, 327 N.C. 283, 304, 395 S.E.2d 85, 97 (1990). No physical impact, physical injury or physical manifestation of emotional distress need be proven. *Id*. Severe emotional distress does not require medical expert testimony. *Clark v. Clark*, 280 N.C. App. 403, 415, 867 S.E.2d 704, 715 (2021). Testimony of the plaintiff's friends, family, pastors, or others is sufficient to support a finding of severe emotional distress. *Id.*

7. *Johnson v. Ruark Obstetrics and Gynecology Associates, P.A.*, 327 N.C. 283, 304, 395 S.E.2d 85, 97 (1990).