

Intentional Infliction of Emotional Distress: Special Halloween Edition

Halloween is full of good hearted trick or treaters of all ages. I thought it would be interesting to share with you cases where a mean spirited person was sued for the intentional infliction of emotional distress. One case involved a newsletter titled - "Most Fucked Up Teacher Ever." Believe it or not, this was a real case that was appealed and discussed by the First District Court of Appeals for Florida. Read further for more details.



Try your luck at this month's Mystery Song. Send me an e mail with the name of the artist and get a chance to win a free lunch. Your odds of winning are much better than the lottery.

A lawsuit may have resulted from a Halloween pranks but I could not find any reported appellate cases in Florida involving such facts. However, there are several cases out there where someone set out to scare, defame, or harm another person with oral and written statements.

Without a physical injury, it can be difficult to sue another person or company for only mental pain and suffering. The conduct in Florida needs to be outrageous in conduct and spirit. Each case is evaluated on an individual basis.

I found two interesting cases to share with you. One case involved students from a Tallahassee high school who wrote an article about a teacher. Before you read further, please be advised that the language from the appellate case is graphic in nature. In Nims v. Harrison, 768 So.2d 1198 (Fla. 1st D.C.A. 2000), students from Leon High School in Tallahassee distributed a "newsletter" that contained the following:

Most Fucked Up Teacher (And Other People Who Are Just Fucked Up)

Mrs. Nims for being a stupid bitch who has black skin and is a fucking gigaboo so fuck you, you stupid ass bitch I will kill you you fucking whore ass faget maggot burger I will rape you and all your children and cousins you stupid mother fucking bitch die nigger.

The trial court in Nims threw out the case and ruled that the case did not meet the high standards for such cases in Florida. I personally do not understand how the judge threw out the case. Florida law clearly recognizes cases for intentional infliction of emotional distress when the acts are intentional and outrageous. The above so called newsletter was vulgar, outrageous, and mean spirited. The First District Court of Appeal reversed the trial court's ruling and decided that the case could move forward with the case. The Nims Court cited another interested case, Ford Motor Credit v. Sheehan, 373 So.2d 956 (Fla. 1st D.C.A. 1979). In Sheehan, a Ford Motor Credit representative called Mrs. Sheehan's mother and informed her that Mrs. Sheehan's children were in a serious accident and transported to a hospital for emergency care and treatment. There was no accident or injuries. The representative made these statements as a ploy to get a current address and phone number for Mrs. Sheehan. The Courts found that this conduct was outrageous and supported the jury award that awarded money damages to Mrs. Sheehan. The Court noted that the standard in Florida is when the conduct alleged is "so outrageous in character, and so extreme in degree, as to go beyond all bounds of decency."

Sticks and stones may break my bones but words will never hurt me. This certainly is a nice saying; however, Florida law, as you can see, does allow a recovery when words are used to hurt someone's feelings.

The origin of the Sticks and Stones saying is as follows:

"STICKS AND STONES MAY BREAK MY BONES, BUT WORDS (NAMES) WILL NEVER HURT ME. - Although a physical attack may harm me, I am not bothered by cruel words or name-calling. I don't care what you're saying. This children's taunt was first listed in 'Folk Phrases of Four Counties' (1894) by G.F. Northall and is first attested in the United States in 'Miss Lindsey' (1936) by S.G. Gibbons. The proverb is found in varying forms: Sticks and stones may break my bones, but hard words cannot hurt me; Sticks and stones can break my bones, but words can never hurt me; Sticks and stones will break my bones, but lies will never hurt me." From "Random House Dictionary of Popular Proverbs and Sayings" (1996) by Gregory Y. Titelman (Random House, New York, 1996).

"Morris Dictionary of Word and Phrase Origins" by William and Mary Morris (HarperCollins, New York, 1977, 1988) also says that "Folk Phrases" is the first use of the phrase they could find.

Intentional Infliction of Emotional Distress cases are not common and the facts have to line up to support such a case. I hope that your Halloween festivities are filled with more treats than tricks. Have a safe Halloween. Make sure that your kids wear bright clothes and bring flash lights. Watch over your kids and the kids in your neighborhood.

Audio Section



If you have difficulty playing the audio clips, download the Quick Time Player by clicking below. It is easy to download and use.



Mac Corner

I am sorry to report that this month was filled with more problems with the Mac Book Pro lap top. It crashed more times that I can count. Apple sent it in for repairs and seems to work fine now. Several parts had to be replaced. While I was surprised to have an Apple with such problems, Apple did fix the computer and I found its customer service representatives to be quite helpful through the mess.

Now that I am back in full force with my lap top, I am putting it to good use with this month's newsletter. I recommend a program that is free called Buddy Pop. It allows instant look up of contacts in your address book. It works quite well and has been recommended by Mac World. Hope your Mac or Macs To Be avoid the path that my lap top took this past month.

