Contact chronology and emotional-distress analysis

Stevenson v. Stevenson, No. 56-CV-20-2928
Doc. 429, Order and Memorandum Granting Summary Judgment and Dismissing, June 16, 2023

Selected passages, transcribed from the court's order. Formatting and line breaks are simplified. Each labeled block stands separately and identifies its original page. Material between blocks may be omitted; [...] marks an omission within a block. Page numbers in this PDF refer to the excerpt, not the full order.

First letter - original page 10

The final events underlying the claims in this matter occurred in 2020. Sean located contact information for Marie's father, Melvin. Sean drafted a letter to Melvin, which Lisa reviewed. Then, on or about May 30, 2020, Sean sent Melvin the letter through the mail. See Aff. Tentinger, Ex. 16.

Notice and reported distress - original page 10

On June 4, 2020, Marie learned of the letter from another family member. Plaintiffs contend that the portion of this letter placed in bold was defamatory, and also that Marie suffered emotional distress upon learning that Sean had contacted Melvin.

June 5 report - original page 10

In response, Craig and Marie sent a series of emails to Sean, Ashley, and Lisa, in which they also copied Lonna, the mother of Lisa and Craig. On June 5, 2020 at 12:39 PM, Craig sent an email to the group stating that Marie had experienced a panic attack.

June 5 warning - original page 11

Marie sent an email to the group stating that they had potentially put her life, as well as her children's lives, in danger by causing Melvin to nose around regarding her life.

Later mailings and claim - original pages 11-12

On or about June 10, 2020, Sean printed out all of these emails and mailed a copy of them to Melvin. See Aff. Tentinger, Ex. 16. Marie learned about this on July 1, 2020, when her brother told her that Melvin had received the print-outs. Plaintiffs allege that Marie suffered emotional distress upon receiving this news. Finally, on or about July 4, 2020, Sean sent a final letter to Melvin. See Aff. Tentinger, Ex. 17.

[...]

In addition, Marie pleads a claim against Sean for intentional infliction of emotional distress based on his letters to Melvin.

The court's formulation of the claim - original page 28

What that leaves, then, is the theory that Marie was harmed because Sean specifically chose to contact her estranged father, Melvin. The Court construes Plaintiff's claim in light of this theory.

Plaintiffs cite no case, in this or any other jurisdiction, where an emotional distress claim was sustained based on such a theory, and the Court discovers none.

Community-response reasoning - original page 29

These circumstances are not so egregious as to form an exception to those general rules. Sean merely sent three letters to Melvin sharing his unflattering opinions of Craig, along with a copy of Plaintiffs' own words about Melvin. Sean may have intended this as a sort of petty oppression, and he may have intended to create the threat that Melvin would involve himself with Craig and Marie's life. But even if this is so, threats, annoyances, and petty oppressions are not actionable. Average members of the community might to respond to the report of such conduct with a groan or an eyeroll, but little more. They would be more likely to interject "Uff-Da" than they would be to exclaim "Outrageous!" Similarly, from an objective perspective, such conduct is not so rare that it can possibly be considered extreme. Courts frequently encounter behavior of this type. Indeed, Courts are frequently the vehicle by which estranged relatives end up nosing around in each other's business. If such conduct were actionable, then claims for emotional distress could easily become the majority of a trial court's calendar.

Known vulnerability and persistence argument - original page 29

They argue that, even if Sean's conduct is not intrinsically extreme and outrageous, it was tortious because he persisted in the face of knowledge that Marie is particularly susceptible to emotional distress when it comes to the subject of her father. They argue he acted outrageously because he was "aware of [her] emotional sensitivity, yet did not care."

Restatement discussion - original pages 29-30

The Court is unconvinced. The Restatement notes that the "extreme and outrageous character of [an actor's] conduct may arise from the actor's knowledge that the other is peculiarly susceptible to emotional distress, by reason of some physical or mental condition or peculiarity … when the actor proceeds in the face of such knowledge…." Restatement (Second) of Torts § 46, cmt. f. But it continues on to say that "the mere fact that the actor knows that the other … will have [her] feelings hurt, is not enough." Id. And it gives examples that illustrate the point.

The two illustrations - original page 30

In one example, the particular mental condition is what permits the actor's conduct to be distressing at all: "A knows that B … believes in witchcraft. In order to force B to sell A his farm, A goes through the ritual of putting a 'hex' on [B's] farm, causing B to believe that it is bewitched…. A is subject to liability to B for [emotional distress]." Id., illus. 10. In the other example, the condition simply makes the plaintiff more sensitive to ordinary sources of distress: "A is an otherwise normal girl who is a little overweight, and is quite sensitive about it. Knowing this, B tells A that she looks like a hippopotamus. … B is not liable to A [for emotional distress]." Id., illus. 13. These examples illustrate that the law will take notice when a person uses the unusual vulnerability of a plaintiff to seek an unconscionable advantage. But the law will not go so far as to allow a person to use an assertion of fragility to enforce a heckler's veto. To go that far would practically be to transform the objective inquiry contemplated by the Restatement into a question of what the Plaintiff subjectively finds to be outrageous.

The court's application - original page 30

This case is far more like the second example than like the first. Plaintiffs' emails to Sean informed him that Marie was especially sensitive, particularly on the subject of her Father. But they did not inform Sean that contact with Melvin would be perceived as having some sort of magical power of Marie, completely divorced from rational processes. And there is no evidence that Sean sought to use such a magical power to gain an unconscionable advantage over Marie. At most, Sean simply disregarded it. Thus, Plaintiffs' argument is essentially that Sean acted outrageously because he knew that Marie would be (unreasonably) outraged. This is not the law.

Completed concluding paragraph - original pages 30-31

Ultimately, Plaintiffs' claim that Sean's conduct was extreme and outrageous allows for no principled line to be drawn between the conduct here and the conduct of any defendant who engages in any activity that might offend anyone who is particularly prone to offense for any reason. No liability should be imposed when such a line cannot be drawn because "some degree of emotional harm must be expected in social interaction and tolerated without legal recourse." Restatement (Third) of Torts: Phys. & Emot. Harm § 46, cmt. d.

Holding - original page 32

The Court holds that Sean's alleged conduct, even when viewed in the light most favorable to Plaintiffs' claim, patently fails to be meet the element of being extreme, outrageous, and intolerable in a civilized society. For this reason, a claim for intentional infliction of emotional distress cannot stand. In light of this, it is unnecessary to consider Defendants' other arguments for dismissal of this claim.