
NY Appellate Division Holds That Negligent Infliction of Emotional Distress Claims Do Not Require Extreme and Outrageous Conduct

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Under New York law, courts — including the New York Appellate Division, First Department (the “First Department”) — have historically required a showing of extreme and outrageous conduct to sustain a cause of action for negligent infliction of emotional distress (“NIED”). In *Brown v. New York Design Ctr., Inc.*, 2023 WL 2417772 (N.Y. App. Div. 1st Dep’t Mar. 9, 2023), however, the First Department reversed itself on this point, holding 6-0 that NIED claims do not require such a showing. This holding put the First Department in line with the Appellate Divisions for the Second, Third, and Fourth Departments, each of which has eliminated the “extreme and outrageous conduct” requirement in recent years. The First Department’s decision in *Brown* also confirmed that plaintiffs asserting an NIED claim may recover for emotional harm, even if they were not physically injured.

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