

MENTAL ANGUISH/DISTRESS DAMAGES

- A. Define this element of damages. See AMI 2205. Bruns v. Bruns, 290 Ark. 347 (1986)
- B. When is this element of damages available? See pages 706-731. Consider the following situations:
- 1) Wrongful death claims; tomorrow's class
 - 2) Traditional intentional torts;
Pursley v. Price, 283 Ark. 33 (1984)
Smith v. Hansen, 323 Ark. 188 (1996)
 - 3) Negligence of the defendant, causing physical injuries.
(parasitic claims):
Crinkley, page 707. § 29-2
 - 4) Mental anguish caused by negligence, but unaccompanied by physical harm or impact.
Camper, page 712
Bystander claims; #2, page 711. § 33-12
 - 5) Fear of future (and possible) physical illness
Norfolk & Western, page 719
 - 6) Breach of contract
Rubin, page 728
 - 7) The tort of outrage; #3, page 712. § 33-13
 - 8) Should mental anguish be authorized in any of the following claims? Can you imagine a set of facts that might be persuasive?
 - a) damage to personal property
 - b) death of a household pet
 - c) fraud
 - d) legal malpractice
 - e) wrongful dishonor of a check
- C. Why are courts reluctant to allow distress damages? See page 718-719.
- D. What type of evidence is relevant and admissible? See § 4-7.
- E. How does the fact finder determine the amount? How does the appellate court review?