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? 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 689. § 29-2

4) Mental anguish caused by negligence, but unaccompanied by physical harm or impact Goldberg, page 694
Bystander claims; #2, page 693. § 33-12

5) Fear of future (and possible) physical illness
Potter, page 696

6) Breach of contract
Rubin, page 704.

7) The tort of outrage; #3, page 693. § 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 696.

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?

09/T/16