

# Agis v. Howard Johnson Company

Supreme Judicial Court of Massachusetts, 1976

371 Mass. 140, 355 N.E.2d 315

**FACTS** Debra Agis was a waitress in a restaurant owned by the Howard Johnson Company. On May 23, 1975, Roger Dionne, manager of the restaurant, called a meeting of all waitresses at which he informed them that "there was some stealing going on." Dionne also stated that the identity of the party or parties responsible was not known and that he would begin firing all waitresses in alphabetical order until the guilty party or parties were detected. He then fired Debra Agis, who allegedly "became greatly upset, began to cry, sustained emotional distress, mental anguish, and loss of wages and earnings." Mrs. Agis brought this complaint against the Howard Johnson Company and Roger Dionne, alleging that the defendants acted recklessly and outrageously, intending to cause emotional distress and anguish. The defendants argued that damages for emotional distress are not recoverable unless physical injury occurs as a result of the distress. The judge dismissed the complaint, and Mrs. Agis appealed.

**DECISION** Judgment dismissing the complaint reversed.

**OPINION** An individual "who, by extreme and outrageous conduct and without privilege, causes severe

emotional distress to another is subject to liability for such emotional distress even though no bodily harm may result." Mrs. Agis successfully established the following four essential elements: (1) that the defendants intended to cause emotional distress or that they knew or should have known that emotional distress was likely to result from their conduct; (2) that the defendants' conduct was "extreme and outrageous" and "beyond all possible bounds of decency"; (3) that the defendants' actions caused Mrs. Agis's distress; and (4) that Mrs. Agis's emotional distress was "severe" and such "that no reasonable man could be expected to endure it."

**INTERPRETATION** Physical injury is not required for a plaintiff to recover damages for severe emotional distress caused by extreme and outrageous conduct.

**ETHICAL QUESTION** What would have been an ethical way for Dionne to have handled this matter? Explain.

**CRITICAL THINKING QUESTION** Should physical injury be necessary to recover damages for emotional distress? Explain.