



1987

# Recent Developments: Reagan v. Rider: Stepparent Committing Child Abuse Liable for Intentional Infliction of Emotional Distress

Frank Borgerding

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## Recommended Citation

Borgerding, Frank (1987) "Recent Developments: Reagan v. Rider: Stepparent Committing Child Abuse Liable for Intentional Infliction of Emotional Distress," *University of Baltimore Law Forum*: Vol. 18 : No. 1 , Article 14.  
Available at: <http://scholarworks.law.ubalt.edu/lf/vol18/iss1/14>

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Court declared, "[w]e merely hold that where the government's activities have already worked a taking of all use of property, no subsequent action by the government can relieve it of the duty to provide compensation for the period during which the taking was effective." *Id.* Thus, on remand, should a California court declare the ordinance to effect a taking, Los Angeles County must compensate the Church for a period beginning when the ordinance became effective until it is declared void.

Having finally clarified the issue of damages for inverse condemnation, landowners may feel relieved that they can receive compensation should a local government go too far in regulating land use. Anyone desiring to challenge such laws promulgated pursuant to police powers must still follow local and state procedures in pursuit of administrative remedies before a regulation may be challenged as an unconstitutional taking. Only then will the law be struck down when the challenger proves that it has been denied of all reasonable uses of the land. See generally, *Id.* at 2389.

As a result of *First English*, the Court has extended the Just Compensation Clause to the fullest extent possible by allowing compensation for a temporary regulatory taking of property. In subjecting local, state and federal governments to financial liability, despite a legislative power to amend or repeal an excessively encroaching law, the Court has simultaneously provided the widest possible protection of property rights and also inhibited local governments in their attempts to regulate land use by the police powers.

—Martin S. Goldberg

#### **Reagan v. Rider: STEPPARENT COMMITTING CHILD ABUSE LIABLE FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

In *Reagan v. Rider*, 70 Md. App. 503, 521 A.2d 1246 (1987), the Court of Special Appeals of Maryland affirmed the position of the Circuit Court for Baltimore County by holding that a teenage girl who had suffered from a six-year pattern of sexual abuse inflicted by her stepfather proved causation and injury sufficient for the jury to consider her claim of intentional infliction of emotional distress. In so holding, the court has given a clear signal that a stepparent committing child abuse may be sued for intentional infliction of emotional distress.

Glenda Ann Rider began living with her

mother, stepfather, grandmother and two stepbrothers at age ten. She claimed that she was the victim of several hundred sexual encounters with her stepfather which occurred while she was between the ages of eleven and seventeen. The encounters included sexual contact such as masturbation and cunnilingus, but not sexual intercourse. At first, she did not resist, but as she grew older she began to resist and eventually reported the activity to her mother. At her mother's urging, the police were notified and criminal charges were brought against the stepfather, John Matthew Reagan. Mr. Reagan was tried and acquitted of the criminal charges.

A civil suit including a claim of intentional infliction of emotional distress was brought in the Circuit Court for Baltimore County. The intentional infliction of emotional distress was the only count submitted to the jury and a verdict in favor of Ms. Rider in the amount of \$28,845 (\$18,845 compensatory damages and \$10,000 punitive damages) was entered. Mr. Reagan appealed.

The court of special appeals noted that the four elements necessary to impose liability for a claim of intentional infliction of emotional distress are essentially those listed in Section 46 of the Restatement (Second) of Torts, Ch. 2, Emotional Distress (1965) are as follows:

- (1) The conduct must be intentional or reckless;
- (2) The conduct must be extreme and outrageous;
- (3) There must be a causal connection between the wrongful conduct and the emotional distress; and
- (4) The emotional distress must be severe.

The court of special appeals viewed the case as presenting two questions:

- (1) Whether the evidence presented at trial was legally sufficient to allow submission of the case to the jury on the issue of causation; and
- (2) Whether the evidence presented at trial was legally sufficient to allow submission of the case to the jury on the issue of the severity of emotional distress?

*Reagan*, 70 Md. App. at 505, 521 A.2d at 1247.

Ms. Rider testified at trial that because of the sexual advances of her stepfather she had suffered extreme embarrassment, depression, mortification, humiliation and severe weight gain. In addition, Ms. Rider claimed that the sexual abuse hampered her ability to form normal relationships and caused her to engage in forms of unusual sexual behavior.

At trial, the testimony was supported by

the opinion of Dr. Michael N. Spodak, a forensic and clinical psychiatrist, who testified as an expert.

The Court of Special Appeals of Maryland separated its written opinion into two parts in order to deal with the two issues of causation and severity.

In regard to the issue of causation, appellant asserted that appellee failed to show a causal connection because the appellee's emotional distress did not become apparent immediately after and in direct response to the sexual acts. *Moniodis v. Cook*, 64 Md. App. 1, 494 A.2d 212, cert. denied, 304 Md. 631 (1985). The *Reagan* court however, rejected the interpretation that *Moniodis* requires that the distress must immediately follow the event which caused it.

Appellant further argued that there was evidence of other traumatic events which could have contributed to Ms. Rider's distress. This argument was also rejected by the court since the testimony of both Ms. Rider and Dr. Spodak indicated that any other possible causes of Ms. Rider's distress were directly attributable to appellant's conduct.

Accordingly, the court found adequate evidence from which a jury could find that appellee's emotional distress was caused by appellant's sexual abuse.

In regard to the issue of severity, the *Reagan* court noted that the court of appeals requires the plaintiff to show that she suffered a severely disabling emotional response to the defendant's conduct. *Harris v. Jones*, 281 Md. 560, 570, 380 A.2d 611, 617 (1977). The court of appeals went on to quote comment; of Section 46 of the Restatement, supra, which says in pertinent part, "[the] law intervenes only where the distress inflicted is so severe that no reasonable man could be expected to endure it." *Harris*, 281 Md. at 570, 380 A.2d at 616-617.

The *Harris* court also indicated that "it is for the court to determine whether, on the evidence, severe emotional distress can be found; it is for the jury to determine whether, on the evidence, it has in fact existed." 281 Md. at 571, 380 A.2d at 617.

The *Reagan* court then proclaimed:

We think the evidence in this case clearly established that appellee's distress is not a "neurotic overreaction to trivial hurts" which "are the price of a complex society." It is not "transient and trivial." Nor is it of such a nature that a "reasonable person in civilized society should be expected to endure it."

*Reagan*, 70 Md. App. at 507, 521 A.2d at

1249 (1987)

The court went on to reject appellant's position that *Moniodis* requires that the plaintiff prove she is completely disabled before she can recover. While the court acknowledged that appellant's argument did find some support in the language of *Leese v. Baltimore County*, 64 Md. App. 442, 497, A.2d 159, cert. denied, 305 Md. 106 (1985) and in *Hamilton v. Ford Motor Credit Co.*, 66 Md. App. 46, 502, A.2d 1057, cert. denied, 306 Md. 118 (1986) the court pointed out that these cases were clearly distinguishable because the plaintiffs failed to produce any medical evidence in support of his or her claim.

The court further observed that "in appropriate cases, 'severe' emotional distress may be inferred from the extreme and outrageous nature of the defendant's conduct alone." *Vicnire v. Ford Motor Credit Co.*, 401 A.2d 148 (Me. 1979), citing Restatement, supra, Section 46, Comment K.

The *Reagan* court noted that the appellant conceded that the evidence in this case was sufficient to find the intentional or reckless and the extreme and outrageous elements of intentional infliction of emotional distress. The court went on to state once again that the element of causation was established sufficiently to submit the question to the jury by the testimony of the appellee and Dr. Spodak. Finally, the court concluded that severity, the last ele-

ment of intentional infliction of emotional distress could be concluded from the very nature of the outrageous conduct itself, sexual molestation of a child over a six-year period.

Accordingly, the Court of Special Appeals of Maryland upheld the judgment of the Circuit Court for Baltimore County in finding that the facts of the case were sufficient to create a jury question on the claim of intentional infliction of emotional distress. In so holding, the court gives further guidance to the practitioner attempting to meet what has always been a very high standard of proof.

— Frank Borgerding

**Board of Directors of Rotary International v. Rotary Club of Duarte: EXCLUSIVITY OF ALL MALE MEMBERSHIP IN PRIVATE CLUB DESTROYED BY CALIFORNIA STATUTE**

The United States Supreme Court recently upheld the application of a California anti-discrimination statute to an all male local chapter of Rotary International, thereby opening regular membership to women. In *Board of Directors of Rotary International v. Rotary Club of Duarte*, 107 S. Ct. 1940 (1987), the Supreme Court decided the issue of whether the California Unruh Civil rights Act<sup>1</sup> ("Unruh"), Cal.

Civ. Code § 51 (West 1982), requiring local California Rotary Clubs to admit women as members, violated the first amendment right to freedom of association. The Court held that Unruh, which entitles all persons, regardless of sex, to equal accommodations in business establishments, did not abridge the first amendment freedom of private association or right of expressive association by admitting women as members to an exclusively male organization.

Rotary International (International) is a nonprofit corporation composed of local Rotary Clubs worldwide. "It is an organization of business and professional men united to provide humanitarian service, encourage high ethical standards in all vocations, and help build goodwill and peace in the world." 107 S. Ct. at 1942. Membership in local Rotary Clubs is limited to men as mandated by International's constitution and by-laws. Women are not admitted as members but are permitted to "attend meetings, give speeches, receive awards," and participate in Rotary's auxiliary organizations. *Id.* at 1943. The "classification principle" utilized by International, with certain exceptions, limits the number of male members from each classification of business or profession within the community. *Id.*

In 1977, a local Rotary Club in Duarte, California admitted three women as active members. International revoked the Duarte club's charter for having admitted the

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