

Proving Mental Anguish Damages in Personal Injury Cases

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2021 CAR CRASH SEMINAR

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Brown v. Sullivan (Tex. 1888)

“Where serious bodily injury is inflicted, involving fractures, dislocations, etc., and results in protracted disability and confinement to bed, we know that some degree of physical and mental suffering is the necessary result. Hence, when a serious bodily injury which threatens permanent disability, and continues for a long time, is proved, the jury are authorized to consider the pain of both the body and mind in assessing the amount of damages, without direct proof of sufferings.”

2

Parkway Co. v. Woodruff (Tex. 1995)

- Property Damage case; NOT personal injury
- Woodruff's sued contractor after home flooded
- Evidence of mental anguish:
 - Mr. Woodruff was "hot" and "very disturbed"
 - Mrs. Woodruff said whole life had "changed," it was "not pleasant," and it was "just upsetting"
 - Both had become "very quiet;" had caused "friction" in their marriage

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Parkway: Historical Review

"Historically, some types of *disturbing* or *shocking* injuries have been found sufficient to support an inference that the injury was accompanied by mental anguish. As a general matter, though, qualifying events have demonstrated a threat to one's physical safety or reputation or involved the death of, or serious injury to, a family member."

4

Parkway: New Standard of Legal Sufficiency

“An award of mental anguish damages will survive a legal sufficiency challenge when the plaintiffs have introduced direct evidence of the nature, duration, and severity of their mental anguish, thus establishing a substantial disruption in the plaintiff’s daily routine.”

5

Parkway: Close Judicial Scrutiny

“Although we stop short of requiring this type of evidence in all cases in which mental anguish damages are sought, the absence of this type of evidence, particularly when it can be readily supplied or procured by the plaintiff, justifies close judicial scrutiny of other evidence offered on this element of damages.”

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First appeared as part of the conference materials for the
2021 The Car Crash Seminar session

"Assessing and Proving Mental Anguish Damages in Personal Injury Cases"