IN THE COURT OF APPEALS OF IOWA

No. 2-970 / 12-0506
Filed January 24, 2013

JEANNIE SCHLICHTE,
Beneficiary-Appellant,

vs.

WILLIAM SCHLICHTE, As Administrator (Executor) in Probate of the Estate of GREGORY SCHLICHTE,
Executor-Appellee.

Appeal from the Iowa District Court for Plymouth County, Duane E. Hoffmeyer, Judge.

An incest victim appeals from the grant of summary judgment in favor of her father's estate. **AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.**

Jay Denne of Munger, Reinschmidt & Denne, L.L.P., Sioux City, and Judy Cuevas-Freking, LeMars, for appellant.

Michael W. Ellwanger of Rawlings, Ellwanger, Jacobs, Morhauser & Nelson, L.L.P., Sioux City, for appellee.

Heard by Potterfield, P.J., and Danilson and Tabor, JJ.

TABOR, J.

On the day her father died, Jeannie Schlichte finally felt free. Six months after his death she sued his estate, alleging he sexually abused her across three decades and asking for one million dollars in damages. The estate moved for summary judgment, arguing the suit was barred by the statute of limitations.

The district court granted summary judgment, finding Jeannie knew of the abuse and was aware of or on inquiry notice of the causal connection between the abuse and her injuries more than two years before filing suit. The court also rejected Jeannie's claim that the statute of limitations was tolled because she repressed memories of the abuse or because she suffered a mental illness that prevented her from filing suit. Finally, the court found as a matter of law that the father's conduct toward Jeannie in his final months of life did not constitute assault and battery or intentional infliction of emotional distress.

Given our case law definition of inquiry notice, we agree with the district court that the two-year statute of limitations bars Jeannie's claims concerning the abuse she suffered as a child and young adult. Similarly, we find no error in the district court's rejection of the tolling arguments. Accordingly, we affirm the summary judgment on the statute-of-limitations issues. But we part ways with the district court in its legal analysis of the events that occurred within two years of her filing suit. When viewed in the context of the father's persistent sexual abuse and harassment of Jeannie since her childhood, we conclude reasonable minds could differ on the question of whether he committed assault and battery or intentionally inflicted emotional distress on his daughter as she cared for him

in his final months of life. Accordingly, we reverse the grant of summary judgment on Jeannie's final issue.

I. Background Facts and Procedures

The summary judgment record features the following facts. Jeannie Schichte was born in 1953. She recalled her father, Gregory Schlichte, started sexually abusing her when she was nine years old—about the time she joined her 4-H club. According to his own memory, Gregory may have initiated the abuse when she was just six years old. Gregory admitted engaging in more than three-hundred sexual encounters with his daughter. The acts ranged from fondling his daughter's breasts, to rubbing his penis against her genitalia, to oral sex, and vaginal intercourse. Gregory remembered sexually abusing Jeannie until she was in her thirties.

Jeannie graduated from college and then moved back to her home town. She has been self-employed most of her life, operating a sewing business. She also has held part-time sales jobs at retail stores, mostly to qualify for health insurance benefits.

In 2003, Jeannie's seven-year-old niece reported that her grandfather Gregory had sexually abused her. In a series of three family meetings, Jeannie revealed to her siblings and their spouses that Gregory had a history of sexually abusing her. Her brother and his wife encouraged Jeannie to seek counseling. Jeannie told them that she had asked a mental health professional who estimated that it would cost her as much as $7000 to obtain the therapy she needed considering how many years she had suffered abuse. The family

ultimately decided to report Gregory's abuse of his granddaughter to authorities. Gregory pleaded guilty to five counts of lascivious acts with a child; the court sentenced him to consecutive terms totaling twenty-five years.

The court reconsidered his sentence of confinement in January 2004. In support of that reconsideration motion, Jeannie wrote a letter to the court on her father's behalf, recommending he receive counseling rather than incarceration. The court modified Gregory's sentence, placed him on probation for five years, and ordered that he attend sexual offender treatment at Catholic Charities. In connection with her father's sex offender treatment, Jeannie attended two counseling sessions in July and August 2004. The therapist noted at the first session Jeannie was "in total denial" that the sexual abuse by her father had any ill effects upon her. At the second session, the therapist confronted Jeannie with an admission from her father that he had sexual intercourse with her until she was thirty-five years old. Jeannie was offended and denied the occurrence of abuse. When the counselor suggested she would need extensive therapy, Jeannie responded there were "no problems." Jeannie stated in her deposition that despite her response, she was open to counseling with a different therapist and believed it would have been beneficial to her. Jeannie also participated in group sessions with her family at Catholic Charities during which they talked about the impact of her father's behavior on the family.

In addition to the sessions at Catholic Charities, Jeannie consulted a mental health counselor in Sioux City before 2003 and again in 2004. She did not follow up with treatment after either meeting. Over the years, Jeannie did

discuss her mental and emotional difficulties with a close friend who was trained as a divorce counselor. After 2003, Jeannie revealed to her friend that she had been sexually abused by her father and discussed her low self-esteem issues.

Gregory continued to make sexual advances toward Jeannie during his final years of life. He would call his daughter on the telephone and ask her if she missed "it" (referring to having sex with him); he also would tell her that he was naked and masturbating. When she brought her father to physical therapy from December 2009 until July 2010, he would make comments about her "needing a man in her life" that she considered inappropriate. Gregory moved into a nursing home in July 2010. Jeannie visited him every Sunday. During those visits he would say things like: "Why don't you crawl in bed with me?" At times he would expose himself to her. Other times she recalled that he would touch her breast while she helped him put on his shoes or walk to the restroom.

Gregory died on September 3, 2010. On March 15, 2011, Jeannie filed a claim for $300,000 in damages against his estate. She filed an amended claim on October 10, 2011, seeking one million dollars from the estate for "past and future pain and suffering, damages for past and future medical treatment, damages for past intentional infliction of emotional distress and future ongoing emotional trauma, and damages for each year of sexual abuse that she received at the hands of her father, the Decedent."

On December 6, 2011, the estate filed a motion for summary judgment, alleging that Jeannie's suit was barred by the statute of limitations. Jeannie

resisted the motion. The court granted summary judgment on February 24, 2012. Jeannie filed a timely appeal.

II. Scope and Standards of Review

The district court may grant summary judgment to dispose of a claim barred by the applicable statute of limitations. *Kestel v. Kurzak*, 803 N.W.2d 870, 874 (Iowa Ct. App. 2011). We review a summary judgment ruling for correction of legal error. *Rathje v. Mercy Hosp.,* 745 N.W.2d 443, 447 (Iowa 2008). Summary judgment is appropriate only when the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits reveal no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. *Hegg v. Hawkeye Tri–County REC,* 512 N.W.2d 558, 559 (Iowa 1994). On appeal, we must decide whether a genuine issue of material fact exists, and if the district court correctly applied the law. *Id.* We view the evidence presented in the light most favorable to the party opposing the motion for summary judgment. *Murtha v. Cahalan,* 745 N.W.2d 711, 713–14 (Iowa 2008). We indulge every legitimate inference the evidence will bear to ascertain the existence of a fact question. *Id.* at 714.

III. Analysis

The district court determined Jeannie's claims were barred by the two-year statute of limitations at Iowa Code section 614.1(2) (2011). On appeal, Jeannie argues the district court misapplied the discovery rule, failed to account for the possibility she repressed memories of the sexual abuse, and erred in finding section 614.8 did not apply to toll the statute of limitations based on her

diagnosis of post-traumatic stress disorder (PTSD).[1] She also claims the court erred in granting summary judgment despite the existence of a genuine issue of material fact concerning torts committed by her father within two years of her filing the suit against his estate.

A. Discovery Rule

We turn first to the discovery rule. In Iowa, the limitations period does not start to run "until [the] plaintiff has in fact discovered that he has suffered injury or by the exercise of reasonable diligence should have discovered it." *Chrischilles v. Griswold,* 150 N.W.2d 94, 100 (1967) (discussing common law discovery rule that was later superseded by statute). When a statute of limitations uses the word "accrued" to describe when the time begins to run, the discovery rule applies. *See Vachon v. State*, 514 N.W.2d 442, 445 (Iowa 1994) (discussing *Callahan v. State,* 464 N.W.2d 268, 270 (Iowa 1990)); *see also Sparks v. Metalcraft, Inc.*, 408 N.W.2d 347, 351 (Iowa 1987).

Our supreme court has adopted "inquiry notice" as the gauge to determine the outer time limit for bringing a cause of action. *Woodroffe v. Hasenclever,* 540 N.W.2d 45, 48 (Iowa 1995). The court defined inquiry notice as an awareness of facts that "would prompt a reasonably prudent person to begin seeking information as to the problem and its cause." *Id.* That moment of awareness begins the running of the statute of limitations. *Id.* The duty to investigate does not depend on the plaintiff having exact knowledge of the nature of the problem

---

[1] The district court also concluded that Jeannie could not take advantage of the special limitations period for child sexual abuse victims in Iowa Code section 614.8A. Jeannie does not challenge that conclusion on appeal.

that caused the injury. *Kestel*, 803 N.W.2d at 875. It is enough that he or she was aware that a problem existed. *Id.*

The district court determined that Jeannie was aware of the abuse in 2003 "at the very latest." At the point when her niece disclosed that Gregory had moved on to the next generation of victims, Jeannie acknowledged having been molested by her father. When family members urged her to seek counseling, Jeannie told them that she had looked into it, but that it would cost as much as $7000 for the extent of help she would need. The court noted Jeannie was aware of the abuse much earlier than 2003, realizing in her twenties that her father had perpetrated criminal acts against her. In 2004, a counselor at Catholic Charities told Jeannie she would need extensive counseling, and though outwardly she responded that she had "no problems," she admitted in her deposition that she realized then she needed professional help. She also disclosed to a friend trained in counseling that she suffered from years of depression and low self-esteem, and related those feelings to being abused by her father.

The district court concluded that while Jeannie may not have realized the magnitude of harm caused by her father's abuse, she was on inquiry notice more than two years before her father's death.

On appeal, Jeannie asserts a reasonable jury could conclude she did not discover her injury until her father died. She testified: "The day my dad died was the day I was free." She relies on *Frideres v. Schiltz*, 540 N.W.2d 261, 267 (Iowa 1995), for the proposition that whether a victim has made a sufficient discovery to

trigger the statute of limitations is a fact question to be determined on a case-by-case basis.

It is true that a plaintiff's "mere knowledge of abuse" will not necessarily commence the running of the statute of limitations in every case. *See Frideres*, 113 F.3d at 899. In *Frideres*, the Eighth Circuit Court of Appeals reasoned that a person who has always remembered specific acts of sexual abuse may rely on the discovery rule where the nexus between those acts and the claimed injuries is not discovered until a time less than two years before the action. *Id*. But in *Frideres*, the Eighth Circuit relied on the Iowa cases of *Woodroffe* and *Borchard v. Anderson*, 542 N.W.2d 247 (Iowa 1996), and determined as a matter of law that Frideres's action was time barred because she "remembered the abuse and was aware of enough of its effects to seek help more than two years prior to the commencement of her action." *Id*.

We believe that like the plaintiff in *Frideres*, Jeannie had enough knowledge linking the abuse and her resulting injuries, as evidenced by her seeking both professional counseling and solace from a friend, to place her on inquiry notice more than two years before she filed her claim against the estate. The district court did not err in its application of the discovery rule.

B. Tolling for Repressed Memories

We next address Jeannie's claim that the district court failed to recognize the significance of her repressed memories. She points to her testimony that every time she goes to counseling since her father's death she remembers more specific incestuous acts that he committed.

We considered the issue of repressed memories in *Steinke v. Kurzak,* 803 N.W.2d 662, 670 (Iowa Ct. App. 2011). We recognized the limitations period may be tolled for repressed memories. *Steinke,* 803 N.W.2d at 670 (citing *Borchard*, 542 N.W.2d at 251 n.2). We also opined that repressed memories may incorporate varying gradations of blocked recall. *Id.* But we rejected Steinke's claim of repressed memories based on the equivocal nature of his expert's opinion and Steinke's own assessment that he tried his best to not to think about the abuse. *Id.* at 671.

In this case, Jeannie presented an affidavit from her therapist, Mary Von Tersch Hanno, whom she started to see in March 2011. Hanno diagnosed Jeannie with PTSD. The therapist described a criteria for PTSD as "persistent avoidance of stimuli associated with the trauma" and opined that Jeannie possessed characteristics to satisfy that criteria, including trying to "avoid thoughts, feelings or conversations associated with the trauma," trying to "avoid activities, places or people that arouse recollections of the trauma," and "an inability to recall important aspects of the trauma."

In her affidavit, Hanno wrote the following:

> Jeannie has never discussed the details of the abuse to anyone throughout her childhood and adult life. A very minimal amount of information came out during the disclosure of the fondling of her niece by Gregory Schlichte. Jeannie has never put into words the details of the ongoing sexual trauma until she entered therapy. As she puts the abuse into words, she is able to recall previously repressed abuse.

The district court concluded that "unfortunately, the language of the claimant's therapist is akin to that from the plaintiff's therapist in *Steinke*." The court noted

that like Steinke, Jeannie deliberately avoided conjuring up memories of the abuse, which is different from not actually remembering the abuse.

The district court also relied on *Woodroffe* in which our supreme court rejected the idea of a "moving window" of limitations where each time a plaintiff recalled another incident of sexual abuse "the 'clock' would be reset and the plaintiff would have additional time to bring another lawsuit." *See Woodroffe*, 540 N.W.2d at 48. The district court decided Jeannie's sparked memories of additional sex acts did not restart the limitations period given that she was aware of some of the abuse and her resulting injuries much earlier.

We agree with the district court's analysis. While therapist Hanno's affidavit makes a compelling case for why Jeannie did not fully appreciate the extent of her abuse or how its pathology affected many areas of her life, the therapeutic strides that Jeannie has made since her father's death do not overcome the inquiry notice requirement engrafted onto Iowa's discovery rule. Our supreme court has articulated the relevant question is not "'[w]hat did plaintiff know of the injury done [her]? but, what might [she] have known, by the use of the means of information within [her] reach, with the vigilance which the law requires of [her]?'" *Woodroffe*, 540 N.W.2d at 49 (quoting *Chrischilles*, 150 N.W.2d at 100).

C. Tolling for Mental Illness

Jeannie also argues her time for filing the claim should have been tolled under Iowa Code section 614.8(1), which extends the limitations period in favor of persons with mental illness, providing "one year from and after the termination

of the disability within which" to commence an action. She contends that her PTSD diagnosis qualifies as a disability, which prevented her from filing a timely claim.

The district court rejected Jeannie's claim that her mental condition rendered her unable to file suit in a timely manner. The court summarized its considerations:

> [T]he claimant has been diagnosed with chronic PTSD. She has owned her own business providing sewing services for at least thirty years. In addition to her work as a seamstress, she has held a part-time job selling appliances for over five years. She is also responsible for her own finances. Although the claimant presented a signed affidavit from her therapist averring that the abuse has contributed to her "compulsive work practices and being taken advantage of at work, fear of relationships and intimacy, eating disorders, sleep disturbance, social awkwardness, and anxiety and depression," the report does not indicate that the claimant suffered to the extent that she was unable to file suit because of those issues.

The district court supported its decision with references to *Borchard*, 542 N.W.2d at 249, and *Langner v. Simpson*, 533 N.W.2d 511, 523 (Iowa 1995). The *Langner* court held that the statute of limitations would only be tolled if the plaintiff's mental illness rose to the level of a disability preventing him or her from filing a lawsuit. 533 N.W.2d at 523. "In short, the disability must be such that the plaintiff is not capable of understanding the plaintiff's rights." *Id*. In *Borchard*, the court turned back a tolling argument because "[a]lthough plaintiff has been diagnosed with PTSD, she provides absolutely no factual support that she was continually 'mentally ill' within the meaning of the term for the past twelve years." *Borchard*, 542 N.W.2d at 249 (noting that plaintiff raised children and held a job).

On appeal, Jeannie claims she meets the definition of a "person with mental illness" under Iowa Code section 614.8(1). In *Kestel*, we decided the legislature's change in the wording of section 614.8(1) from "mentally ill persons" to "persons with mental illness" was not substantive, and the cases interpreting the prior statute were still applicable. 803 N.W.2d at 878. Accordingly, we concur with the district court's reliance on *Langner* and *Borchard*. Under that precedent, Jeannie is unable to show that her PTSD rose to the level of a disability preventing her from filing a lawsuit in a timely manner. The district court was correct in finding section 614.8(1) did not toll the statute of limitations in this case.

D. Tort Claims for Incidents within Two Years of Suit

In her final assignment of error, Jeannie contends the district court erred in finding no genuine issue of material fact as to her tort claims of assault, battery, and intentional infliction of emotional distress based on events that occurred within two years of March 15, 2011—the day she filed her lawsuit. Jeannie claims the summary judgment record contains evidence upon which a reasonable jury could find that Gregory engaged in tortious conduct between March 15, 2009, and his death on September 3, 2010. We will discuss each kind of tort in turn.

1. Assault and Battery

Our code sets out two pertinent definitions of assault: (1) "[a]ny act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent

ability to execute the act" and (2) "[a]ny act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act." Iowa Code § 708.1. The district court cited those definitions and concluded "reasonable minds could not differ in finding that the acts of brushing across the claimant's chest once or twice while the claimant was helping the decedent put on his shoes in the nursing home, without evidence of anything more, do not constitute an assault."

The district court then examined our supreme court's definition of a tortious battery:

> [a]n actor is subject to liability to another for battery if
> a. he acts intending to cause a harmful or offensive contact with the person of the other or a third person, or an imminent apprehension of such a contact, and
> b. an offensive contact with the person of the other directly or indirectly results.

See Nelson v. Winnebago Industries, Inc., 619 N.W.2d 385, 388-89 (Iowa 2000) (quoting Restatement (Second) of Torts § 18(1) (1965)). The supreme court explained "bodily contact is offensive if it offends a reasonable sense of personal dignity." *Id*. at 389 (citing Restatement (Second) of Torts § 19).

The district court concluded the record lacked sufficient evidence to show Gregory "intended to cause an offensive contact rather than inadvertently brush against his daughter's chest because he was in a close proximity to his daughter so that they could accomplish the task of putting on his shoes."

On appeal, Jeannie argues that the district court missed evidence in the record to support her claim of assault and battery. She points out offensive

touching that occurred when he was in the nursing home and Jeannie was trying to help him to the bathroom. She testified that when he was reaching for her arm he rubbed across her breast and then "[h]e kind of laughed." She responded by telling him that if he "pull[ed] that stunt" he could go back to prison again.

She also identified repeated incidents where her father asked to kiss her when she was taking him to physical therapy. In addition, she noted that "every time she bent down to put his shoes on, he touched her, and it was only when he touched her that he told her that he loved her." When she told him to "knock it off" he would "just laugh." She argues: "Perhaps in the abstract, that may seem innocuous, but considering the history of sexual assault and continued sexual advances that lasted five decades, a reasonable jury could easily conclude that any touch was a battery in this case."

The district court acknowledged "the decedent's previous actions certainly cast doubt on The Estate's contention that such acts were unintentional." Yet the court found that Gregory's act of brushing across Jeannie's breasts "without evidence of anything more" could not be an assault as a matter of law. We disagree. Our supreme court has decided that a defendant's unwelcome act of placing his hand on the victim's breast was an assault. *State v. Baldwin*, 291 N.W.2d 337, 340 (Iowa 1980). Plus, Jeannie's testimony that Gregory laughed when he touched her inappropriately would allow a jury to infer his intent to engage in insulting or offensive physical contact with his daughter or to place her in fear of injurious, insulting, or offensive contact.

Moreover, considering the context of their relationship, and Gregory's relentless lewd remarks and gestures toward his daughter, a reasonable fact finder could surmise that he intended to cause a harmful or offensive contact and that his contact with her breasts offended Jeannie's "reasonable sense of personal dignity." *See Nelson*, 619 N.W.2d at 389. We conclude that when viewing the summary judgment record in the light most favorable to Jeannie, there exists a genuine issue of material fact on her claims of assault and battery.

2. Intentional Infliction of Emotional Distress

To be liable for the tort of intentional infliction of emotional distress, a plaintiff must prove the following elements: (1) outrageous conduct by the defendant; (2) the defendant's intentional causing, or reckless disregard of the probability of causing emotional distress; (3) the plaintiff's suffering from severe or extreme emotional distress; and (4) that the defendant's outrageous conduct was the "actual proximate causation" of the emotional distress. *Van Baale v. City of Des Moines*, 550 N.W.2d 153, 156 (Iowa 1996). The supreme court differentiated "mere bad conduct" from "outrageousness" as follows:

> Liability has been found only where the conduct has been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community. Generally, the case is one in which the recitation of the facts to an average member of the community would arouse his resentment against the actor, and lead him to exclaim, "Outrageous!"

Id. at 156–57 (citing Restatement (Second) of Torts § 46, cmt. d).

The district court catalogued Gregory's behavior throughout the relevant time period: "[C]alling his daughter and asking if she would go to bed with him,

sitting in his reclining chair without pants, asking his daughter it she "missed it" [referring to sex with him], and asking her for kisses."

The district court also considered the "special power" Gregory wielded over his daughter in determining whether his conduct could be classified as "outrageous." *See Vinson v. Linn-Mar Cmty. Sch. Dist.*, 360 N.W.2d 108, 118 (Iowa 1984) (observing that the extreme and outrageous character of conduct may arise from abuse of a position of power or special relationship). Nevertheless, the district court did not believe "that at the relevant times, the decedent had enough power over the claimant that sporadic phone calls and a few inappropriate propositions rise to the level of outrageousness needed here." The court also concluded that even if Gregory's conduct could be considered outrageous, Jeannie cannot show "the behavior caused extreme or severe emotional distress."

Jeannie contends on appeal that when her father's conduct in his waning months is considered "against the backdrop of years of physical sexual abuse" it is both outrageous and caused her extreme emotional distress.[2] She also points to the affidavit of her therapist to show a material issue concerning the overall impact of Gregory's actions on her life; therapist Hanno believed that Jeannie was subjected to her father's "manipulative psychological control and entrapment that had imprisoned her for decades."

---

[2] Jeannie argues in her brief that Gregory's actions outside the limitations period may be considered if the pattern of behavior is deemed a "continuous tort." While we agree Gregory's long-standing incestuous relationship with his daughter may be relevant when evaluating his conduct in 2009 and 2010, we don't perceive Jeannie to be arguing that the statute of limitations only began to run at the time of the last injurious act—as was the case in *Cabaness v. Thomas*, 232 P.3d 486, 497 (Utah 2010).

We find Jeannie's argument on this point to be persuasive. If we were to recite the facts of this case to an average citizen—chronicling Gregory's infliction of incest on his daughter from the time she was six years old through her young adult years, and using that horrific history to show Jeannie's susceptibility to emotional distress from her father's disgusting exhibitionism, sexual propositions, and lustful touches even as she is assisting him in his declining years—it is not hard to imagine the citizen exclaiming: "Outrageous!" *See* Restatement (Second) of Torts § 46, cmt. f (noting extreme and outrageous nature of conduct may arise from actor's knowledge that the other person is peculiarly susceptible to emotions distress by reason of mental condition); *see also Roth v. Wiese*, 716 N.W.2d 419, 432 (Neb. 2006) (concluding uncle's threat to victim of sexual abuse thirty years later met the outrageous conduct standard). We conclude reasonable minds could determine that Gregory's conduct toward his daughter in his final months of his life exceeded all bounds usually tolerated by a decent society. *Cf. Meyer v. Nottger*, 241 N.W.2d 911, 921 (Iowa 1976) (discussing vulnerability of family members grieving for deceased relative).

In addition, we believe Jeannie's evidence in opposition to the summary judgment motion generated a jury question on her claim of suffering extreme emotional distress. To establish extreme emotional distress, a plaintiff must offer "substantial evidence of emotional harm [with] direct evidence of either physical symptoms of the distress or a clear showing of a notably distressful mental reaction." *Steckelberg v. Randolph,* 448 N.W.2d 458, 462 (Iowa 1989) (compiling case law showing testimony that plaintiff was disappointed or worried

was insufficient, but evidence of frequent crying, weight loss, and heart spasms was sufficient). Jeannie presented an affidavit from her therapist explaining Jeannie is just now gaining awareness of how her father's abuse is related to her eating disorders, sleep disturbances, anxiety, and depression. We do not find a basis in the record to believe that therapist Hanno limited her opinion to Gregory's pre-2009 conduct as the cause of Jeannie's distress. Jeannie also testified that her father's conduct "damaged" every aspect of her life, including her health. Jeannie has sought therapy since her father's death and noted: "It has been recommended to me to take a medication called Alprazolam or Xanax so that I don't cry so much." Viewed in the light most favorable to the resistance to summary judgment, Jeannie's symptoms caused by her father's actions are sufficient to support a claim for intentional infliction of emotional distress.

We reverse the dismissal of the claims of assault and battery and intentional infliction of emotional distress, and remand for further proceedings consistent with this opinion.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.