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SUPPORTING THE AWARD OF EMOTIONAL DISTRESS DAMAGES AT THE APPELLATE LEVEL

Employment lawyers typically think of damages for emotional pain and suffering in a short-hand manner—“emotional distress.” Typical jury verdict forms contain a single blank for emotional distress damages, and jury instructions often lack specific definition of what types of discomfort and suffering are compensable. However, the actual range of recovery for such personal injury is as wide as the range of human feeling. Our clients should be entitled to recover for the entire negative impact on their psyches, caused by discriminatory conduct.

Provided below is a list of some of the types of emotional distress upon which damages may be awarded. Review of such a list may be important for a number of reasons:

1. It may be possible to have the judge instruct the jury on various types of emotional reactions that could be considered in fashioning an emotional distress award. See Carter v. Commissioner of Corrections, 43 Mass. App. 212 (1997) (emotional distress jury instruction stating “in that category we consider shock, anxiety, embarrassment, mental anguish resulting from the discrimination”). Thus, we can try to have the judge sensitize the jury as to which emotions they should concentrate on in their assessment of damages.
2. It might even be possible to get separate blanks on the jury verdict form for each type or each aspect of emotional distress which is important in the case. The Civil Rights Act of 1991 permits recovery for “emotional pain, suffering, inconvenience, mental anguish, [and] loss of enjoyment of life.” 42 U.S.C. § 1981a(b)(3). Such strong statutory language may assist plaintiff’s arguments to increase the number of verdict form blanks in which this type of damages may be awarded.
3. Consideration of the various types of emotional distress may help open up areas of inquiry and self reflection for plaintiffs who are uneasy speaking about the subject. Sometimes it is easier for people to define their feelings when provided a list of various categories.

4. Finally, it should be recognized that sometimes plaintiffs can only describe their emotional distress in the broadest of terms. When a case is before an Appellate Court, the plaintiff's demeanor at trial is only a remote memory. The transcript will not reflect the depth of emotional pain experienced by the plaintiff, and it will not communicate such things as tears, body language and facial expressions. It may be important to be able to cite precedent that a particular kind of feeling warrants recovery of damages.

With these considerations in mind, I hope the following, non-exhaustive list of the range of compensable emotional distress is helpful.

<u>Alcohol Abuse</u>	<u>Sobocinski v. United Parcel Service, Inc.</u> , MCAD Docket No. 05-SEM-00849, Nov. 30, 2009, at 22 (\$50,000)
<u>Anger</u>	<u>Kenney v. R&R Corp.</u> , 20 MDLR 29, 32 (1998) (\$40,000)
<u>Loss of Appetite</u>	<u>Beldo v. University of Massachusetts, Boston</u> , 20 MDLR 105, 113 (1998) (\$60,000); <u>Land v. Consolidated Freightways, Inc.</u> , 20 MDLR 91, 96 (1998) (\$50,000) (loss of appetite and loss of libido)
<u>Anxiety</u>	<u>Beldo v. University of Massachusetts, Boston</u> , 20 MDLR 105, 113 (1998) (\$60,000) (felt anxiety); <u>Nikolsky v. Summit Services Group, Inc.</u> , 20 MDLR 126, 129 (1998) (\$100,000) (received treatment); <u>Sobocinski v. United Parcel Service, Inc.</u> , MCAD Docket No. 05-SEM-00849, Nov. 30, 2009, at 22 (\$50,000) (hyper-vigilant)
<u>Borrow money</u>	<u>Powell v. City of Pittsfield</u> , 221 F. Supp. 2d 119, 152 (D. Mass. 2002) (plaintiff had to borrow money from mother-in-law)
<u>Career</u>	<u>Erewa v. Reis</u> , 20 MDLR 36, 38 (1998) (\$50,000) (caused Complainant to leave a field of work she loved and enjoyed); <u>Tuli v. Brigham & Women's Hospital</u> , 2011 U.S. App. Lexis 18003, 22-23 (\$1,600,000) (plaintiff doctor felt that she was losing her career, and left her unable to open mail)
<u>Trouble Concentrating</u>	<u>Samuelson v. Sungard Financial Systems, Inc.</u> , 20 MDLR 197, 204 (1998) (\$250,000)
<u>Conduct Not Directed at Complainant</u>	<u>Beldo v. University of Massachusetts, Boston</u> , 20 MDLR 105, 113 (1998) (\$60,000) (may recover for distress caused by conduct not directed toward Complainant)
<u>Confusion</u>	<u>Fijal v. Kentucky Fried Chicken Food Service, Inc.</u> , 20 MDLR 45, 48 (1998) (\$25,000)

<u>Natural Consequence</u>	<u>Labonte v. Hutchins & Wheeler</u> , 424 Mass. 813, 824 (1997) (emotional distress is normal adjunct of being discriminated against)
<u>Crying—Directly From Discriminatory Actions</u>	<u>Samuelson v. Sungard Financial Systems, Inc.</u> , 20 MDLR 197, 204 (1998) (\$250,000); <u>Porter v. Cabral</u> , 2007 U.S. Dist. Lexis 12306, at 27 (D. Mass. 2007) (fits of crying); <u>Monteagudo v. Asociacion de Empleados Del Estado Libre Asociado de Puerto Rico</u> , 554 F.3d 164, 175 (1 st Cir. 2009) (crying every night, depression and loss of sleep) (\$333,000)
<u>Crying—During Hearing</u>	<u>Said v. Northeast Security</u> , 18 MDLR 255, 260 (1996) (\$300,000); <u>Cook v. Town of Wakefield Municipal Light Dept.</u> , 18 MDLR 253, 255 (1996) (\$30,000) (crying on stand); <u>Bergman</u> , 18 MDLR at 147.
<u>Debt</u>	<u>MCAD and Barnes v. Sleek, Inc.</u> , ____ MDLR ____ (March 15, 2011), at 19 (having to borrow \$15,000 from father-in-law)
<u>Feeling Degraded</u>	<u>Durante v. Eastern Properties, Inc.</u> , 18 MDLR 1, 5 (1996) (\$125,000) (feeling dirty and degraded, like a piece of property, after being forced to have sex to keep job)
<u>Depression</u>	<u>Beldo v. University of Massachusetts, Boston</u> , 20 MDLR 105, 113 (1998) (\$60,000) (felt anxiety); <u>Nikolsky v. Summit Services Group, Inc.</u> , 20 MDLR 126, 129 (1998) (\$100,000) (received treatment); <u>Rodriguez-Torres</u> , 399 F.3d at 64 (\$250,000, marriage suffered, financial difficulties, depression); <u>Monteagudo v. Asociacion de Empleados Del Estado Libre Asociado de Puerto Rico</u> , 554 F.3d 164, 175 (1 st Cir. 2009) (crying every night, depression and loss of sleep) (\$333,000)
<u>Disappointment</u>	<u>MCAD and Bingham v. Lynn Sand & Stone Co.</u> , 25 MDLR 123, 132 (\$100,000) (deep disappointment at not getting position); <u>Cossaboom v. Comm. of Massachusetts</u> , 18 MDLR 81, 85 (1996) (\$25,000) (upset and disappointment at not getting position)
<u>Embarassment</u>	<u>DiIorio v. Willowend Country Club, Inc.</u> ____ MDLR ____ (2011), at 6 (retaliatory banishment from club caused embarrassment and loss of friends and contacts).
<u>Loss of Enjoyment of Life</u>	<u>Samuelson v. Sungard Financial Systems, Inc.</u> , 20 MDLR 197, 204 (1998) (\$250,000); <u>Tosti v. Ayik</u> , 400 Mass. 224 (1987) (\$275,000 in defamation claim) (deterioration of social life);

	EEOC Enforcement Policy Guidance No. 915.002 § II(A)(2) (July 14, 1992) (loss of enjoyment of life); “The List” printed in National NELA materials provides a list of hundreds of activities, which may help employees identify the areas of their lives impacted by discrimination.
<u>Exacerbation of Preexisting Conditions</u>	<u>McTernan v. Boston Public Schools</u> , 27 MDLR 80 (2005) (MCAD appears to include plaintiff’s (who suffered from post-polio syndrome) physical exhaustion as part of the basis for large emotional distress damages award); <u>Boston v. MCAD</u> , 2009 WL 1794689 (Mass. App.) (\$195,000) (exacerbation of musculoskeletal problems); <u>Beldo v. University of Massachusetts, Boston</u> , 20 MDLR 105, 113 (1998) (\$60,000) (exacerbated preexisting mental condition and history of alcohol abuse); <u>Land v. Consolidated Freightways, Inc.</u> , 20 MDLR 91, 96 (1998) (\$50,000) (preexisting emotional problem); <u>Hurd v. Mass. Port Authority</u> , 20 MDLR 11, 19 (1998) (\$15,000) (distress exacerbated by fiancée expecting a child and worries about future); <u>Chanson v. Westinghouse Corp.</u> , 17 MDLR 1293, 1300-1 (1995) (\$250,000) (exacerbation of Crohn’s disease); <u>EEOC v. AIC Security Investigations, Ltd</u> , 55 F.3d 1276, 1286 (7 th Cir. 1995) (emotional distress of person suffering from illness is “considerably greater than that suffered by the ordinary victim of a wrongful discharge”);
Family	<u>Baron v. Suffolk County Sheriff’s Dept.</u> , 402 F.3d 225, 246 (1 st Cir. 2005) (approx. \$500,000) (harassment caused plaintiff to be short-tempered with wife and children); <u>Murphy v. Boston Herald</u> , 2007 Mass. Lexis 275 (Plaintiff could recover emotional distress of watching his daughter suffer the consequence of defamation, where daughter testified that defamation against her father caused her acute emotional trauma, with constant concern for her safety and her father’s safety); <u>Porter v. Cabral</u> , 2007 U.S. Dist. Lexis 12306, 27-28 (D. Mass. 2007) (evidence of plaintiff and her family was “uncorroborated,” but was sufficient to support an award of emotional distress); <u>Thomas O’Connor Constructors, Inc. v. MCAD</u> , 72 Mass. App. 549, 561 (2008) (\$50,000) (stopped playing with children, ceased communicating with wife, and locked self in room, kept coming home angry); <u>Sobocinski v. United Parcel Service, Inc.</u> , MCAD Docket No. 05-SEM-00849, Nov. 30, 2009, at 22 (\$50,000) (strained relationship with wife and brother); <u>Anderson v. United Parcel Service</u> , MCAD Docket No. 08-SEM-00376, Waxman, March 16, 2010 (\$125,000) (contributed to breakup of marriage)
<u>Fear—General</u>	<u>Beldo v. University of Massachusetts, Boston</u> , 20 MDLR 105,

	113 (1998) (\$60,000) (feeling intimidated)
<u>Fear—Physical</u>	<u>Love v. Boston Housing Authority</u> , 18 MDLR 249, 251 (1996) (\$100,000) (feeling unsafe in own home); <u>Kamara v. GM Properties</u> , 20 MDLR 221, 224-5 (1998) (physical fear causing Complainant to move residence); <u>Erewa v. Reis</u> , 20 MDLR 36, 38 (1998) (\$50,000) (terror from violent incident)
<u>Resulting Finances</u>	<u>Durante v. Eastern Properties, Inc.</u> , 18 MDLR 1, 5 (1996) (\$125,000) (forced to move into a homeless shelter when unable to pay rent after termination); <u>Hurd v. Mass. Port Authority</u> , 20 MDLR 11, 19 (1998) (\$15,000) (insecurity about future and career and belief that career was over); <u>Lungelow v. Boston Penal Institution</u> , 14 MDLR 1350, 1362 (1992) (\$35,000) (destitute); <u>Tosti v. Ayik</u> , 400 Mass. 224 (1987) (\$275,000 in defamation claim) (discharge caused plaintiff to sell two homes, uproot his family, sell furniture, and borrow from relatives); <u>Quint v. A.E. Stanley Mfg. Co.</u> , 172 F.3d 1, 14 n. 10 (1 st Cir. 1999) (worries over loss of health insurance); <u>Puckett v. Commercial Aviation Services</u> , 24 MDLR 77, 79 (2002) (\$15,000) (disappointment that complainant would not earn extra pay to provide for family); <u>Vieques Air Link, Inc. v. United States Department of Labor</u> , 437 F.3d 102 (1 st Cir. 2006) (\$50,000) (the employee was forced to sell his two modest cars and deplete his savings); <u>Rodriguez-Torres</u> , 399 F.3d at 64 (\$250,000, marriage suffered, financial difficulties, depression); <u>Valentin-Almeyda v. Municipality of Aguadilla</u> , 447 F.3d 85, 103 (1 st Cir. 2006) (lost house, and care, and employee and children were forced to move into an abandoned house); <u>Soto-Lebron v. Federal Express Corp.</u> , 538 F.3d 45, 66-67 (1 st Cir. 2008) (financial difficulties from wrongful discharge led to loss of time with spouse due to her working, difficulties in child support, lost vacation, lower earnings at new job, depending financially on wife and in-laws); <u>Trainor v. HEI Hospitality LLC</u> , 2012 U.S. Dist. Lexis 4558, at 15-17 (\$500,000, could not find work, and lived off unemployment until benefits ran out, and used most of life savings); <u>Kelley v. Comm. of Mass.</u> , Memorandum of Decision and Order on the Defendants’ Motion for Judgment Notwithstanding the Verdict and Motion for Remittitur, or, in the Alternative, a New Trial, C.A. No. 2007-1910, Suffolk, ss., MacLeod, J., March 17, 2014, at 11-12 (anxiety about reduced finances and prevented husband from taking promotion that would have resulted in loss of union protections).

<u>Friendship loss</u>	<u>Woodason v. Norton School Committee</u> , 25 MDLR 62, 63 (2003) (\$50,000) (complainant became obsessed with job loss and kept calling a friend until she lost that friend) <u>DiIorio v. Willowend Country Club, Inc.</u> ___ MDLR ___ (2011), at 6 (retaliatory banishment from club caused embarrassment and loss of friends and contacts).
<u>Frustration</u>	<u>MCAD v. Franzaroli</u> , 357 Mass. 112, 115 (1970)
<u>Headaches</u>	<u>Eng v. American Pie, Inc.</u> , 20 MDLR 53, 58 (1998) (\$50,000); <u>Powell v. City of Pittsfield</u> , 221 F. Supp. 2d 119, 152 (D. Mass. 2002) (\$60,000)
<u>Helplessness</u>	<u>Beldo v. University of Massachusetts, Boston</u> , 20 MDLR 105, 113 (1998) (\$60,000) (feeling helpless and hopeless)
<u>Hives</u>	<u>McSweeney v. Trial Court of Massachusetts</u> , Decision of the Hearing Officer, MCAD Docket No. 07-BEM-01947, Judith Kaplan, August 11, 2011, at 41 (\$50,000, hives after rejection).
<u>Hopelessness</u>	<u>Land v. Consolidated Freightways, Inc.</u> , 20 MDLR 91, 96 (1998) (\$50,000) (hopeless about future)
<u>Humiliation</u>	<u>Kane v. Suffolk Co. Sheriff's Dept.</u> , 20 MDLR 135, 146 (1998) (being singled out based on handicap); <u>Eng v. American Pie, Inc.</u> , 20 MDLR 53, 58 (1998) (\$50,000) (humiliated by jokes concerning Complainant's lawsuit); <u>Carter v. Commissioner of Corrections</u> , 43 Mass. App. 212 (1997) (\$15,000) (embarrassment); <u>Draghetti v. Chmielewski</u> , 416 Mass. 808 (1994) (ridicule by coworkers)
<u>Inconvenience</u>	<u>Hogan v. Bangor and Aroostook R. Co.</u> , 61 F.3d 1034, 1037 (1 st Cir. 1995) (wife who had been children's primary caregiver was forced to work so family could have insurance); EEOC Enforcement Policy Guidance No. 915.002 § II(A)(2) (July 14, 1992)
<u>Importance of Job</u>	The fact that working at a particular job is very important to the plaintiff must be factored into the award of emotional distress damages. <u>Albanese v. Co-Ri Co.</u> , 21 MDLR 6, 11 (1999) (\$30,000 awarded in emotional distress damages to discrimination victim job was important to the complaint).
<u>Isolation</u>	<u>Rottenberg and MCAD v. Mass. Dept. of State Police</u> , Decision of the Full Commission, MCAD Docket No 03-BEM-01359, May 26, 2010, at 5 (female state Sergeant did not have access to

	lounge room, because the only access was through the male's locker room, and that isolation prevented the complainant from eating, socializing and relaxing with male peers, in a line of work very dependant on camaraderie and peer support) (\$20,000)
<u>Withdrawing money from the IRA account</u>	The plaintiff was out of work for three years, had anxiety about supporting his family, and had to withdraw \$170,000 from his IRA, so the Court awarded \$170,000 in emotional distress. <u>Cariglia v. Hertz Equipment Rental Corp.</u> , Memorandum and Order, C.A. No. 98-12516, Lindsay, J., (D. Mass. October 28, 2004) (c. 151B age discrimination bench trial)
<u>Job Performance</u>	<u>Hurd v. Mass. Port Authority</u> , 20 MDLR 11, 19 (1998) (\$15,000) (unable to approach job with focus and drive)
<u>Lawyers Fees</u>	<u>McSweeney v. Trial Court of Massachusetts</u> , Decision of the Hearing Officer, MCAD Docket No. 07-BEM-01947, Judith Kaplan, August 11, 2011, at 41 (\$50,000 – anxiety over lawyers fees).
<u>Litigation</u>	Feeling drained emotionally and financially from litigation. <u>Psy-Ed Corp. v. Klein</u> , Findings of Fact, Rulings of Law and Order on Plaintiff-in-Counterclaim Kimberly Schive's Motion for Assessment and Award of Damages and Fees and For Entry of Judgment, C.A. No. 99-6140, Middlesex, ss., Hamlin, J., March 12, 2009 (\$125,000); <u>B.K.B. v. Maui Police Department</u> , 276 F.3d 1091, 1106-1109 (9th Cir. 2002) (\$5,000 emotional distress award as a sanction because of the emotional stress caused by the humiliation of hearing evidence barred by FRE 412); <u>McSweeney v. Trial Court of Massachusetts</u> , Decision of the Hearing Officer, MCAD Docket No. 07-BEM-01947, Judith Kaplan, August 11, 2011, at 41 (\$50,000 awarded when the complainant experienced anxiety over upcoming depositions, litigation, and concern over lawyers fees).
<u>Loneliness</u>	
<u>Marriage Difficulties</u>	<u>Rodriguez-Torres</u> , 399 F.3d at 64 (\$250,000) (marriage suffered, financial difficulties, depression); <u>MCAD and Barnes v. Sleek, Inc.</u> , ___ MDLR ___ (March 15, 2011), at 20 (\$150,000) (marriage suffered and went to counseling)
<u>Mitigation</u>	<u>Kelley v. Comm. of Mass.</u> , Memorandum of Decision and Order on the Defendants' Motion for Judgment Notwithstanding the

	Verdict and Motion for Remittitur, or, in the Alternative, a New Trial, C.A. No. 2007-1910, Suffolk, ss., MacLeod, J., March 17, 2014, at 11-12 (plaintiff attempted to mitigate her damages by going to therapy, taking medication, and avoiding the coworkers likely to cause her upset).
<u>Nervous breakdown</u>	<u>Valentin-Almeyda v. Municipality of Aguadilla</u> , 447 F.3d 85, 103 (1 st Cir. 2006)
<u>Nightmares</u>	<u>Guth v. Fradellos</u> , 18 MDLR 229, 231 (1996) (\$100,000) (nightmares); <u>Land v. Consolidated Freightways, Inc.</u> , 20 MDLR 91, 96 (1998) (\$50,000) (suicidal dreams)
<u>Obsession</u>	<u>Woodason v. Norton School Committee</u> , 25 MDLR 62, 63 (2003) (\$50,000) (complainant became obsessed with job loss and kept calling a friend until she lost that friend); <u>Porter v. Cabral</u> , 2007 U.S. Dist. Lexis 12306 (D. Mass. 2007) (obsessive cleaning).
<u>Other non-work related stressers</u>	<u>Boston v. MCAD</u> , 2009 WL 1794689 (Mass. App.) Rule 1:28 decision (\$195,000) (hearing officer balanced evidence of emotional distress caused by discrimination with evidence of other, non-work stressers, in awarding emotional distress damages); <u>Rafferty v. Keyland Corp.</u> , 22 MDLR 125 (2000) (other stresses does not preclude \$100,000 emotional distress award); <u>Anderson v. United Parcel Service</u> , MCAD Docket No. 08-SEM-00376, Waxman, March 16, 2010, at 30 (\$125,000) (other sources of stress, including bipolar disorder, did not absolve employer of stress caused by discriminatory actions).
<u>Physical Activity</u>	<u>MCAD and Barnes v. Sleek, Inc.</u> , ____ MDLR ____ (March 15, 2011), at 19 (Loss of) (\$150,000)
<u>Reaction to Pretext</u>	<u>Said v. Northeast Security</u> , 18 MDLR 255, 260 (1996) (\$300,000) (endured listening to manufactured explanation of employer's actions at hearing); <u>Hurd v. Mass. Port Authority</u> , 20 MDLR 11, 19 (1998) (\$15,000) (implied accusation that Complainant stole made her feel ashamed and paralyzed)
<u>Loss of Pride</u>	<u>Anderson v. United Parcel Service</u> , MCAD Docket No. 08-SEM-00376, Waxman, March 16, 2010, at 30 (\$125,000) (loss of pride in job, where employee worked from bottom level to management)
<u>Reaction to Proceedings</u>	<u>Said v. Northeast Security</u> , 18 MDLR 255, 260 (1996) (\$300,000) (cried at hearing and endured listening to

	manufactured explanation of employer's actions at hearing); <u>Kenney v. R&R Corp.</u> , 20 MDLR 29, 32 (1998) (\$40,000) (exacerbation of feelings whenever Complainant faced proceedings before agency); <u>Eng v. American Pie, Inc.</u> , 20 MDLR 53, 58 (1998) (\$50,000) (humiliated by jokes concerning Complainant's lawsuit); see <u>Crying—During Hearing</u> , and <u>Inconvenience</u> .
<u>Invasion of Privacy</u>	<u>Said v. Northeast Security</u> , 18 MDLR 255, 260 (1996) (\$300,000) (using Complainant's prayer rug to clean)
<u>Psychological Injury</u>	EEOC Enforcement Policy Guidance No. 915.002 § II(A)(2) (July 14, 1992) (nervous breakdown)
<u>Impairment of Relationships</u>	<u>Wong v. Boston</u> , 20 MDLR 212, 215 (1998) (\$40,000) (adverse effect on relationship with wife and children); <u>Beldo v. University of Massachusetts, Boston</u> , 20 MDLR 105, 113 (1998) (\$60,000) (irritability with wife and family); <u>Eng v. American Pie, Inc.</u> , 20 MDLR 53, 58 (1998) (\$50,000) (irritable, and trouble getting along with others); EEOC Enforcement Policy Guidance No. 915.002 § II(A)(2) (July 14, 1992) (marital strain); <u>Draghetti v. Chmielewski</u> , 416 Mass. 808 (1994)
<u>Retaliation</u>	<u>Lowell v. MCAD</u> , 70 Mass. App. 1111 (2007) (\$200,000) (that a complainant correctly perceived a retaliatory motive in denying her promotion supports claim for damages)
<u>Retirement (forced)</u>	<u>DeRoche v. MCAD</u> , Memorandum of Decision, C.A. No. 03-4218, Middlesex, ss., Hines, J., February 10, 2005 (\$50,000)
<u>Self-Esteem</u>	<u>Hurd v. Mass. Port Authority</u> , 20 MDLR 11, 19 (1998) (\$15,000); <u>Kenney v. R&R Corp.</u> , 20 MDLR 29, 32 (1998) (\$40,000) (self-doubt); <u>Fijal v. Kentucky Fried Chicken Food Service, Inc.</u> , 20 MDLR 45, 48 (1998) (\$25,000) (doubts of self-worth)
<u>Sexual Dysfunction/ Impotence</u>	
<u>Shock</u>	<u>Carter v. Commissioner of Corrections</u> , 43 Mass. App. 212 (1997) (\$15,000)
<u>Sleeplessness</u>	<u>Guth v. Fradellos</u> , 18 MDLR 229, 231 (1996) (\$100,000) (insomnia); <u>Samuelson v. Sungard Financial Systems, Inc.</u> , 20 MDLR 197, 204 (1998) (\$250,000); <u>Thomas O'Connor</u>

	<u>Constructors, Inc. v. MCAD</u> , 72 Mass. App. 549, 561 (2008) (\$50,000) (lost sleep); <u>Monteagudo v. Asociacion de Empleados Del Estado Libre Asociado de Puerto Rico</u> , 554 F.3d 164, 175 (1 st Cir. 2009) (crying every night, depression and loss of sleep) (\$333,000)
<u>Social Life diminishment</u>	<u>Lowell v. MCAD</u> , 70 Mass. App. 1111 (2007) (\$200,000); <u>Trainor v. HEI Hospitality LLC</u> , 2012 U.S. Dist. Lexis 4558, at 15-17 (\$500,000, changed from bright, energetic and social to withdrawn), later remitted to \$200,000); <u>DiIorio v. Willowbend Country Club, Inc.</u> , 32 MDLR 34, 44 (2009) (damage to social life) (\$200,000).
<u>Stomach Problems</u>	<u>Land v. Consolidated Freightways, Inc.</u> , 20 MDLR 91, 96 (1998) (\$50,000); <u>Erewa v. Reis</u> , 20 MDLR 36, 38 (1998) (\$50,000) (nausea and diarrhea); EEOC Enforcement Policy Guidance No. 915.002 § II(A)(2) (July 14, 1992) (ulcers, gastrointestinal disorders); <u>Chanson v. Westinghouse Corp.</u> , 17 MDLR 1293, 1300-1 (1995) (\$250,000) (diarrhea, stomach pains, and exacerbation of Crohn’s disease).
<u>Stress</u>	EEOC Enforcement Policy Guidance No. 915.002 § II(A)(2) (July 14, 1992) (fear of making a mistake at work).
<u>Stunned</u>	Feeling stunned upon being called a racial epithet, requiring the complainant to sit down. <u>Augis Corp. v. MCAD</u> , 75 Mass. App. 398, 410 (2009) (\$10,000).
<u>Subsequent</u>	Emotional distress suffered after harassment has ended is compensable. <u>Valentin-Almeyda v. Municipality of Aguadilla</u> , 447 F.3d 85, 103 (1 st Cir. 2006); <u>Augis Corp. v. MCAD</u> , 75 Mass. App. 398, 410 (2009) (\$10,000).
<u>Third Party Retaliation</u>	<u>Murphy v. Boston Herald</u> , 2007 Mass. Lexis 275 (hate mail and death threats received by Judge from anonymous third parties are admissible relative to emotional distress, as are abusive internet chat room comments)
<u>Threats</u>	See “Fear” in this Index. <u>Baron v. Suffolk County Sheriff’s Dept.</u> , 402 F.3d 225, 246 (1 st Cir. 2005) (approx. \$500,000) (harassing telephone calls, being called a rat, being accused of being a child molester, car smeared with feces and tires slashed).
<u>Trust</u>	<u>Erewa v. Reis</u> , 20 MDLR 36, 38 (1998) (\$50,000) (caused loss of trust in people); <u>Eng v. American Pie, Inc.</u> , 20 MDLR 53, 58 (1998) (\$50,000)

<u>Vague Complaints</u>	<u>Guth v. Fradellos</u> , 18 MDLR 229, 231 (1996) (\$100,000) (feeling of dread about going to work); <u>Beldo v. University of Massachusetts, Boston</u> , 20 MDLR 105, 113 (1998) (\$60,000) (extremely upset); <u>Bruning v. Marriott Hotels and Resorts, Inc.</u> , 20 MDLR 20, 27 (1998) (devastated, shocked, and disappointed in employer); <u>Birks v. Holiday Inn</u> , 20 MDLR 33, 36 9 (1998) (felt “really bad,” one of the hardest times of his life, did not feel like a man)
<u>Weight</u>	<u>Hassan v. Boston</u> , 20 MDLR 83, 86 (1998) (\$2,500) (gained 40 pounds); <u>Norman</u> , 15 MDLR 1394 (\$75,000) (lost 40 pounds); <u>Thomas O’Connor Constructors, Inc. v. MCAD</u> , 72 Mass. App. 549, 561 (2008) (\$50,000) (lost weight).
<u>Welfaree</u>	<u>Powell v. City of Pittsfield</u> , 221 F. Supp. 2d 119, 152 (D. Mass. 2002) (plaintiff forced to go on public assistance)
<u>Witnesses</u>	Testifying to Plaintiff’s changed demeanor. <u>Sun & MCAD v. University of Massachusetts, Dartmouth</u> , MCAD Docket No. 05BEM00783, Waxman, Hearing Officer, June 1, 2011, at 46 (others testifying she had become nervous, distracted, and stressed, paler, thinner and upset, suffered a blow to self-esteem, an became a wreck, .and no longer bright, full of humor, vital and cheerful, timid and insecure, and terribly upset, shaking, and had difficulty talking about it) (\$200,000.
<u>Work</u>	Emotional distress led to inability to work. <u>Boston v. MCAD</u> , 2009 WL 1794689 (Mass. App.) Rule 1:28 decision (\$195,000); <u>Kelley v. Comm. of Mass.</u> , Memorandum of Decision and Order on the Defendants’ Motion for Judgment Notwithstanding the Verdict and Motion for Remittitur, or, in the Alternative, a New Trial, C.A. No. 2007-1910, Suffolk, ss., MacLeod, J., March 17, 2014, at 11 (emotional distress led to three years of being unable to return to work)

emotional