

COA Opinion: Plaintiff may recover noneconomic damages for damage or destruction to real property

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In *Price v. High Pointe Oil Co.*, No. 298460, the Court of Appeals held that “in negligence actions, a plaintiff may seek recovery of mental anguish damages naturally flowing from the damage to or destruction of real property.”

In *Prince*, plaintiff was awarded \$100,000 in non-economic damages resulting from defendant filling the basement of plaintiff’s home with nearly 400 gallons of fuel oil. A year before the incident, plaintiff converted her home heating system from an oil furnace to a propane furnace. Plaintiff notified defendant of the change, and defendant took plaintiff off the “keep full” oil list. Despite this notice, however, plaintiff was inadvertently placed on the “keep full” list, which resulted in defendant’s oil truck driver filling the fill pipe located on the exterior of the house while plaintiff was at work. Because the oil furnace had been replaced, the fuel oil flooded the basement. The resulting contamination required the demolition of the house and plaintiff being displaced from a permanent home for nearly two years.

The trial court granted plaintiff’s motion for summary disposition on her negligence claim, and further held that plaintiff could seek non-economic damages in connection with her negligence claim. The issue of damages on plaintiff’s negligence claim proceeded to trial, and the trial court entered the \$100,000 non-economic damages award in favor of plaintiff. Defendant appealed.

The Court of Appeals affirmed. The Court noted that non-economic damages are generally recoverable in tort claims, including emotional damages for emotional distress and mental anguish. Acknowledging the Court had “carved out an exception to that general rule in regard to emotion damages for the loss or destruction of personal property,” the Court refused to extend the exception to real property. The Court noted that Michigan law has historically distinguished between personal and real property, and the “unique and peculiar” value of real property warrants permitting recovery for non-economic damages. Applying the general rule to the present case, the Court held that the evidence of emotion anguish presented at trial was sufficient to support the jury verdict, the \$100,000 non-economic damages award was not unreasonable, and the jury verdict was therefore affirmed.