COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

SUPERIOR COURT
NO.

**** *******,

Plaintiff

v.

**** ** ******,

Defendant

PLAINTIFF'S MEMORANDUM OF LAW
Showing Necessary to Recover for Emotional Distress

In Guttierez v. Massachusetts Bay Transp. Auth., 437 Mass. 396, 412 (2002), the SJC stated that Sullivan v. Boston Gas Co. , 414 Mass 129 (1993) "did not eliminate the physical harm requirement, but merely expanded the range of symptoms that may provide the type of objective evidence to prove physical harm..."

"A successful negligent infliction of emotional distress claim... must do more than allege "mere upset, dismay, humiliation, grief and anger... Rather, plaintiffs must corroborate their mental distress claims with ***enough objective evidence of harm to convince a judge that their claims present a sufficient likelihood of genuineness to go to trial***." Sullivan, supra, at 137-138 (emphasis supplied) (holding that expert medical testimony on damages is not always required, and that the plaintiff's combination of tension headaches, muscle tenderness in the back of the head, concentration and reading problems, sleeplessness, gastrointestinal distress, upset stomach, nightmares, depression, feelings of despair, difficulty in driving and working, and an overall "lousy" feeling was sufficient). See also O'Meara v. New England Life Flight, Inc., 2004 1588102 (Mass. Super.) (Billings, J.)

Respectfully submitted,
the plaintiff,
*** *******,
by his attorney:

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date: **** ** ****