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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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SULLIVAN, C. J., concurring in part and dissenting in part. I concur with parts I and II A of the majority opinion. I respectfully disagree, however, with the majority's conclusion in part II B that individual employees may not be held liable for negligent infliction of emotional distress claims arising in the context of ongoing employment.

The majority, citing " 'fears of flooding the courts with "spurious and fraudulent claims"; problems of proof of the damage suffered; exposing [potential defendants] to an endless number of claims; and economic burdens on industry' "; *Clohessy* v. *Bachelor*, 237 Conn. 31, 50, 675 A.2d 852 (1996); concludes that the cause of action recognized by this court in *Montinieri* v. *Southern New England Telephone Co.*, 175 Conn. 337, 398 A.2d 1180 (1978), is not cognizable in the context of ongoing employment. I would conclude that, for all of these policy reasons, this court's decision in *Montinieri*, in which we upheld a jury instruction by the trial court that expanded the preexisting standard for negligent infliction of emotional distress claims to include claims in which the plaintiff has not alleged a resulting bodily injury or illness or a risk of harm from physical impact; id., 345; was misguided. The policy concerns cited by the majority arise in many contexts other than the context of ongoing employment. It is clear to me, for example, that the daily activities of doctors, police officers and teachers are no less chilled by the fear of spurious lawsuits based on *Montinieri* than the activities of employees in the workplace.

Recognizing, however, that the majority is not disposed to reconsider *Montinieri* in this case, as I am, I believe that the distinction drawn by the majority between negligent infliction of emotional distress claims involving a termination of employment and claims arising in an ongoing employment context is arbitrary. The majority concludes that the interest of workers in being protected from negligent infliction of emotional distress is outweighed by other public policy considerations. In my view, however, the same public policy considerations that arise in an ongoing employment context arise in the context of an employment termination. An employer who wishes to terminate an inept employee is faced with the same risk of a spurious lawsuit as an employer who wishes to reprimand an inept employee. Accordingly, I cannot perceive any principle on which to make the distinction made by the majority.

Indeed, I do not believe that this issue ever would have arisen in the District Court if not for the mere fortuity that a number of other courts simply have misinterpreted our statement in *Parsons* v. *United Technolo-*

gies Corp., 243 Conn. 66, 88, 700 A.2d 655 (1997), that ''negligent infliction of emotional distress in the employment context arises only where it is 'based upon unreasonable conduct of the defendant in the termination process' '' to mean that a termination is a condition precedent to a claim of negligent infliction of emotional distress in the workplace. As I already have indicated, I can perceive no reason to adopt that misreading in this case. Although the decision of the majority may reduce the number of claims brought under *Montinieri*, I do not believe that it will reduce the percentage of spurious claims.

I further note that Connecticut apparently is now the only jurisdiction to draw a distinction between negligent infliction of emotional distress claims arising in the context of ongoing employment and claims involving termination of employment. I recognize, as the majority points out, that most of our sister states have a more restricted cause of action for negligent infliction of emotional distress than the standard we adopted in *Montinieri*. I do not believe, however, that this court should adopt an expansive cause of action and then attempt to mitigate the resulting public policy concerns by imposing arbitrary, piecemeal restrictions on its cognizability. See *Mendillo* v. *Board of Education*, 246 Conn. 456, 485, 717 A.2d 1177 (1998) (declining to recognize cause of action for loss of parental consortium on ground that ''we would have to impose arbitrary limitations on the scope of the cause of action in order to avoid the creation of a practically unlimited class of potential plaintiffs''). ''Courts operating in the quintessential common-law context . . . function best, and command the most respect, when their decisions can be defended on grounds of reason and principle. Although courts are, like legislatures, often in the business of drawing lines, how we are expected to draw lines differs significantly from how the legislature is expected to draw lines. Whereas legislatures often draw arbitrary lines, we are expected to draw lines based on reason and principle, and to rely on arbitrary limits only when the policy reasons are sufficiently persuasive to justify performing such an extraordinary task.'' Id., 486–87.

I would conclude that the cause of action recognized by this court in *Montinieri* is cognizable both in the context of ongoing employment and in cases involving termination of employment. Accordingly, I respectfully dissent.