

**APPLICABILITY OF WORKERS' COMPENSATION ACTS  
TO MENTAL DISABILITIES:  
THE PLAINTIFF'S PERSPECTIVE**

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**I. OVERVIEW OF WORKERS' COMPENSATION CASES INVOLVING MENTAL DISABILITIES**

**A. INJURIES COVERED BY WORKERS' COMPENSATION STATUTES**

Since workers' compensation law is, for the most part, a product of state statutory and common law, the protections offered to workers who experience job-related injuries vary greatly depending on jurisdiction. Nonetheless, the states have developed a general body of law with common principles applicable to a greater or lesser degree. Workers' compensation laws in all fifty states tend to compensate injured workers for injuries by accident and diseases arising out of, and occurring within the course and scope of, employment. Workers' compensation statutes are generally systems of wage replacement; they do not provide compensation for non-economic losses, such as pain and suffering.

While these laws tended in their earliest development to provide compensation for physical injuries only, we now live in "a period of advancement in the acceptance, understanding, and treatment of mental illness." Larson's Workers' Compensation News, vol. 2, p. 120 (July 1997). Courts in many states have increasingly recognized the illogic of distinguishing between physical and mental injuries; yet pressure from the employers and the insurance industry to limit the potential costs of compensation for stress-related disability is considerable. Thus the extent to which workers' compensation laws do and should compensate injured workers for psychological and psychiatric conditions has been the subject of law review articles and scrutiny by state legislatures over the past decade.

A "personal injury" in workers' compensation acts has been defined as "any harm or damage to the health of an employee, however caused, whether by accident, disease or otherwise, which arises in the course of and out of his employment, and incapacitates him in whole or in part." Black's Law Dictionary 786 (Sixth ed. 1990). "Injury by accident" has been defined as "[a]n unexpected, unusual or undesigned occurrence." Edwards v. Publishing Co., 227 N.C. 184, 186, 41 S.E.2d 592, 593 (1947), quoting Black. In most states an accidental cause of injury will be inferred where there is "an interruption of the work routine and the introduction thereby of unusual conditions likely to result in unexpected consequences." See, e.g., Gunter v. Dayco Corp., 317 N.C. 670, 673, 346 S.E.2d 395, 397 (1986). Thus in most cases involving a question of injury by accident, workers' compensation benefits are not awarded for injuries arising

out of the routine performance of a worker's duties, barring some statutory exception. The vast majority of workers' compensation decisions awarding benefits to workers with mental injuries have arisen as, or as a result of, injuries by accident.

The vast majority of states also provide compensation for occupational diseases, which in general may be defined as a condition or disease for which a worker's employment places him at increased risk. In addition to the more generally recognized occupational diseases such as asbestosis and occupational lung diseases, more states are recognizing psychological and psychiatric illnesses as occupational diseases, although some states have placed strict limitations on the conditions under which compensation can be received for such diseases.

## **B. EFFECT OF PRE-EXISTING PSYCHIATRIC OR PSYCHOLOGICAL CONDITIONS**

Workers' compensation statutes generally cover injuries and occupational diseases that are either caused or aggravated by work-related conditions. The standard rule in workers' compensation cases is that a work-related aggravation of a preexisting or latent condition is a compensable injury. Larson, Workers' Compensation Law, § 56-25. The majority of jurisdictions, including even those which have taken steps to limit coverage for workplace stress claims, appear to apply this rule equally to claims based on psychological as well as physical injury. According to Larson, there appear to be no reported decisions in which compensation was denied solely because there was a pre-existing "neurotic tendency." Id. Of course, in all disputed workers' compensation cases, there is a burden on the plaintiff to prove that circumstances related to the employment caused the claimed injury. In cases where the injured worker suffered from a pre-existing psychological condition, there may be other sources of stress leading the fact-finder to conclude that, more likely than not, work was not the precipitating factor in the worker's impairment. See, e.g., Cross v. Blue Cross/Blue Shield, 104 N.C. App. 284, 409 S.E.2d 103 (1991)(deaths of several family members and a failed relationship supported Industrial Commission's decision denying benefits for depression and anxiety claimed to have resulted from work).

## **C. INTERSECTION OF TORT AND WORKERS' COMPENSATION WITH RESPECT TO PSYCHOLOGICAL INJURY**

Where workers' compensation statutes are in place, they provide the exclusive remedy for employees who suffer work-related injuries. See, e.g., 3 Colo. Rev. Stat. § 8-41-102; 41-104; Fla. Stat. § 440.11; N.C. Gen. Stat. § 97-10.1. These exclusive remedy provisions bar civil actions in tort against employers for injuries that are covered by workers' compensation. "Thus, in exchange for the certainty and relative speed of the workers' compensation system, an employee surrenders the right to sue his or her employer in tort and the employer surrenders its defenses to such suit." Popovich v. Irlando, 811 P.2d 379, 384 (Colo. 1991). Numerous state appellate courts have grappled with the question whether claims of sexual harassment and other similar workplace torts, frequently resulting in emotional injuries, are barred by the exclusivity

provisions of workers' compensation acts. Most courts considering this issue have ruled that such suits are not barred. See Hogan v. Forsyth Country Club, 340 S.E.2d 116 (N.C. App. 1986); Byrd v. Richardson-Greenshields Securities, Inc., 552 So.2d 1099 (Fl. 1989); Harodyskyj v. Karanian, 2001 WL 1150247; \_\_\_P.2d \_\_\_, (Colo. 2001).

Courts refusing to apply the workers' compensation exclusivity provision to bar tort suits based on workplace sexual harassment have done so on various grounds. For example, in Byrd v. Richardson-Greenshields Securities, Inc., *supra*, the Florida Court of Appeals held that to apply the exclusivity provision to a statutory claim of sexual harassment case based on statute would violate public policy, would be an improper nullification of a statute, and in the case of claims brought under the Civil Rights Act of 1964, would defy the United States Constitution. *Id.* at 1104. Further, the court held, claims for assault and intentional infliction of emotional distress arising from sexual harassment would not be barred because such causes of action, as opposed to workers' compensation claims for lost resources and earnings, address injury to "intangible personal rights." *Id.* (citing cases from five additional jurisdictions). The Colorado Supreme Court has refused to apply the exclusivity provision to tort claims that do not "arise out of" the employment relationship. Under a test developed by the court, willful assaults by co-employees are divided into three categories: (1) those assaults that have an inherent connection with the employment; (2) those assaults that are inherently private; and (3) those assaults that are neutral. Popovich v. Irlando, *supra*, at 383. The first and third categories of assault arise out of the employment for purposes of the workers' compensation act, and the third category does not. Harodyskyj v. Karanian, *supra*. In Harodyskyj, the Colorado court held that the plaintiff's sexual harassment claims against his employer had been improperly dismissed, since the employer specifically targeted the plaintiff, the harassment was private and personal in nature; and the conduct neither originated in the employee's employment functions, nor was it attributable to neutral forces. *Slip. Op.* at 7.

Viewed from a different perspective, efforts to limit workers' compensation claims for emotional distress can have the unforeseen consequence of subjecting employers to tort liability for what would otherwise be considered work-related occupational injury claims. For example, in Onstad v. Payless Shoesource, 9 P.3d 38 (Mont. 2000), the Montana Supreme Court affirmed a jury award in favor of a Montana shoe store clerk who suffered severe mental trauma following a sexual assault by an intruder at the store. The high court held that the award of \$500,000 in compensatory damages and an additional \$1 million in punitive damages against the clerk's former employer, based on its negligence in failing to maintain a safe work environment, was not barred by the exclusivity provision of the state's workers' compensation act.

#### **D. TRADITIONAL CATEGORIZATION OF MENTAL DISABILITY CASES**

Traditionally, commentators have divided workers' compensation claims for psychological injury into three categories: physical-mental; mental-physical and mental-mental. Physical-mental cases, probably the longest recognized of emotional injury cases, are those in which a physical injury leads to a psychological

impairment, such as depression. Mental-physical cases are those in which an emotional stimulus causes a physical reaction and disability. Such a claim may arise where a near-death experience on the job leads to a disabling psychological condition. So-called mental-mental claims, or what are sometimes called “pure stress” claims, involve a mental stimulus causing a psychological injury, and are the source of most legal discussion in state legislatures and courts today.

### **1. PSYCHOLOGICAL INJURY THAT IS A BYPRODUCT OF OR RESULTS FROM A PHYSICAL INJURY BY ACCIDENT OR AN OCCUPATIONAL DISEASE**

Where an employee suffers a compensable physical injury or trauma, and her disability is increased or prolonged by an accompanying or aggravated mental impairment, it is uniformly held that the full resulting disability is also compensable

Dozens of cases, involving almost every conceivable kind of neurotic, psychotic, psychosomatic, depressive, or hysterical symptom, functional overlay, or personality disorder, have accepted this rule. Thus, compensation has been awarded when, after all the physical effects of a fall of rock on claimant’s shoulder had cleared up, complete paralysis of one arm remained, which was attributed entirely to hysteria. ... The same result was reached when a woman got an electric shock in her arm while ironing, and lost the use of the arm due to a neurotic condition. ... Larson, Workers’ Compensation Law, 56-9 (citations omitted).

In occupational disease cases where the employee’s condition has been aggravated or accelerated by an emotional impairment, the treatment by the courts has been less uniform. For example, in McMahon v. Anaconda Co., 678 P.2d 661 (Mont. 1984) the plaintiff, who had worked as an inspector in the employer’s refinery for 23 years, had been continuously exposed to sulphuric acid, organic arsenic, asbestos, and a variety of metallic dusts, resulting in mild cases of chronic obstructive lung disease and laryngeal irritation. He developed serious psychological problems related to his fear of developing cancer if he continued to work at the refinery. The Montana Supreme Court held that “disablement under the Occupational Disease Act includes inability to work in the normal labor market by reason of a psychological disorder stemming from an occupational disease.” Id. at 664. In a case reaching a contrary result, the Colorado Court of Appeals in effect held that disablement must be purely physical in order to be compensable. Romero v. Standard Metals Corp., 29 Colo. App. 455, 485 P.2d 927 (1971). The plaintiff had developed non-disabling silicosis, and had then developed an emotional reaction to the silicosis that was disabling. The court denied the plaintiff’s claim, despite the fact that his total inability to work originated with his occupational disease.

## **2. PSYCHOLOGICAL INJURY THAT RESULTS IN A DISABLING PHYSICAL CONDITION**

Like the physical-mental cases described above, these mental-physical claims are uniformly held to be compensable as long as other requirements, such as causation, are met. Larson, *supra*, 56-3. The typical case falling into this category involves a sudden traumatic event, with an immediate physical reaction, and are analyzed under a work-related accident analysis.

In this group would fall such cases as those involving a sudden noise or flash resulting in paralysis, heart attack, and the like, accidents or near-accidents precipitating heart attacks or cerebral hemorrhages, ... and assorted other sudden frights or emotions accompanied by direct physical consequences.

Larson, *supra*, at 56-4.

If the fear or the ordeal is extreme, workers' compensation claims will not be barred on grounds that the stimulus is somewhat protracted. This category of cases includes the collapse of an employee as the result of repeated brow-beating by a customer; sustained fear of mob violence at a United States embassy; severe cross-examination in a trial at which the employee was testifying on his employer's behalf; threats by robbers in the course of a hold-up; continuing to operate an elevator in a smoke-filled building after a fire had broken out; and trying to help another employee who was caught in an elevator shaft. Larson, *supra*, 56-4-5 (citations omitted).

In many cases in this category, sustained anxiety or pressure associated with work has led to the plaintiff's compensable heart attack or cerebral hemorrhage. Examples of such cases include the cerebral thrombosis of a deputy commissioner of insurance as the result of job pressures, *Insurance Dept. v. Dinsmore*, 233 Miss. 569, 102 So.2d 691, *affirmed on rehearing*, 104 So. 2d 296 (1958), and the heart attack of an employee with preexisting hypertension when her accounts did not balance. *Coleman v. Andrew Jergens Co.*, 65 N.J. Super. 592, 168 A.2d 265 (1961).

In most jurisdictions, a plaintiff will not be able recover for physical injuries that are perceived by the court as caused not by his employment, but rather are as the result of the plaintiff's own overreaction to ordinary work-related events. For example, in *Barnes v. City of Cincinnati*, 69 Ohio App. 3d 140, 590 N.E.2d 294 (1990), the court denied benefits to the claimant because there was no evidence that the on-the-job mental and emotional stress that caused his stomach discomfort "resulted from greater emotional strain or tension than that to which all workers are occasionally subjected."

## **3. SO-CALLED MENTAL-MENTAL, OR "PURE STRESS" CLAIMS**

Cases falling into this category are considered by courts and legislatures to be somewhat non-traditional, and different from those in the other two categories because they do not involve any physical injury. These cases are the focus of most of the legal

analysis and legislative debate focused on stress-related work injuries, and will be the focus of the remainder of this paper.

## **II. OVERVIEW OF STATE LAW WITH RESPECT TO PURE PSYCHOLOGICAL INJURY AND OCCUPATIONAL STRESS CLAIMS**

There is no general consensus among the states regarding whether mental illnesses resulting purely from psychological or mental injuries are compensable under workers' compensation statutes. The majority of state courts and legislatures do recognize pure mental injuries as compensable, although some of these states have established higher standards for the recovery of benefits for psychiatric injuries than for physical injuries. A substantial minority of states bar recovery for such injuries altogether. The following is a sampling of cases and statutory law from several of the states, and is by no means an exhaustive treatment of the subject. For the most accurate assessment of the law of each state, case law and the most recent statutory amendments should be consulted.

### **A. STATES REQUIRING THAT MENTAL INJURIES BE CAUSED BY UNUSUAL CIRCUMSTANCES**

Many states which recognize pure mental injury claims require a showing of unusual stress, meaning "greater than the stress of everyday life, or sometimes greater than that of ordinary employment." Larson, *supra*, 56-52. Maine is typical of such states in that it requires stress that is "extraordinary and unusual in comparison to pressures and tensions experienced by the average employee." Caron v. Maine School Admin. Dist. No. 27, 594 A.2d 560 (Me. 1991)(awarding benefits to teacher who was assigned increased teaching load, travel responsibilities, duties, and whose preparation time was reduced, causing stress related symptoms) Another representative case is Jeanes Hosp. V. Workmen's Comp. Appeal Bd., 141 Pa. Commw. 308, 595 A.2d 725 (1991) in which a nurse who witnessed the collapse of a co-worker who later died of a brain aneurysm was denied benefits on grounds that "mental-mental" injury is compensable only when it arises from abnormal working conditions. The death of a co-worker due to natural causes, while certainly traumatic, was not so abnormal as to support an award of workers' compensation benefits. In Vermont a claimant seeking compensation benefits for stress-related disability must show that his stresses at work "were significantly greater than the stress levels affecting co-employees." Bedini v. Frost, 678 A.2d 893 (Vt. 1996) (holding that it is reasonable to require a greater showing on part of claimants seeking benefits for mental injuries because of greater uncertainty in their diagnosis).

A smaller number of states do not require a finding that an unusual stimulus produce a work-related mental impairment as a prerequisite for compensability. For example, In Alaska the test is whether job stress "actually plays a role in the disability." Wade v. Anchorage School Dist., 741 P.2d 634 (Alaska 1987)(security guard with history of psychiatric problems had succession of episodes showing paranoid reaction). New Jersey has developed a four part test to determine whether pure mental injury

claims are compensable. (1) the claimant must show that the working conditions in question are stressful; (2) the evidence must show that the claimant reacted to them as stressful; (3) the conditions must be “peculiar” to the workplace; and (4) there must be objective evidence supporting a medical opinion of the resulting psychiatric disability. Goyden v. State Judiciary, 256 N.J. Super. 438, 607 A.2d 651 (1991); aff’d, 128 N.J. 54, 607 A.2d 622 (1992).

## **B. REQUIREMENT IN SOME STATES THAT MENTAL INJURIES BE CAUSED BY A SUDDEN, AS OPPOSED TO GRADUAL, STIMULUS**

Several states limit compensation in pure mental injury claims to cases where the injury results from a sudden, as opposed to a gradual, stimulus. See Larson 56-23. This is despite the fact that in cases where a physical injury results from a mental stimulus, a prolonged exposure to the stimulus has been permitted by these same states. Id. California’s statute expressly provides that compensation may be awarded for mental injuries which result from a “sudden and extraordinary employment condition.” Cal. Labor C. § 3208.3 (d). See also McCallum v. Dana’s Housekeeping, 940 P.2d 1022 (Colo. Ct. App. 1996), reh’g. denied, cert. denied (citations omitted)(applying statute defining mental impairment as a “psychologically traumatic event that is generally outside of a workers’ usual experience” to deny benefits to employee who experienced prolonged stress due to understaffing); Proyer v. Monsanto Co., 606 So. 2d 1307 (La. Ct. App. 1992) (supervisor’s telephone call to claimant at home to question about workplace accident and reprimand that included sending claimant home were “unexpected and sudden or violent employment related events” satisfying accident requirement).

On the other hand, the Arizona Supreme Court has held that a psychiatric disability caused by a gradual buildup of emotional stress is compensable, since the unexpected nature of either the cause or the result is sufficient for a finding of accidental injury. Fireman’s Fund Ins. Co. v. Indus. Comm’n, 119 Ariz. 51, 579 P.2d 555 (1978). Similarly, the New York courts have held that a compensable mental injury can result from stress extended over a period of several months. Rackley v. County of Rensselaer, 141 A.D. 2d 232, 535 N.Y.S. 2d 137 (4<sup>th</sup> Dept. 1988). See also, Martin v. Rhode Island Public Transit Auth., 506 A.2d 1365 (R.I. 1986) (injured worker’s claim was compensable as a matter of law where following his refusal to join a work slowdown he was subjected to vicious and sustained harassment by his co-employees, resulting in psychic injury and depression); Stokes v. First Nat’l Bank, 377 S.E.2d 922 (S.C.Ct.App. 1988), affirmed, 410 S.E.2d 248 (S.C. 1991) (prolonged increase in employee’s hours, combined with additional job duties, constituted unusual and extraordinary conditions of employment). But see Board of Educ. of Chicago v. Industrial Comm’n, 182 Ill. App. 3d 983, 131 Ill. Dec. 455, 538 N.E.2d 830 (1989) (holding that teacher in Chicago school system, constantly insulted by students and slapped by one of them, did not present sufficient evidence of unusual stress situation to warrant compensation).

The reasoning of the cases and statutes that draw a distinction between sudden and prolonged onset of mental injury is ultimately strained. As Larson states, “the real

distinction here should be, not between sudden and gradual stimuli, but between gradual stimuli that are sufficiently more damaging than those of everyday employment life to satisfy the normal 'arising out of' test, and those that are not." Larson, supra, 56-24.

### **C. WORK-RELATED STRESS AS AN OCCUPATIONAL DISEASE**

At least five states recognize to some degree that a breakdown from stress may be compensated as an occupational disease. This is true even though in several of these states efforts have been made to limit the workers' compensation benefits that are available to workers with mental injury claims. For example, in 1987 the Oregon state legislature amended the definition of the term "occupational disease" to include:

any mental disorder arising out of and in the course of employment which requires medical services or results in physical or mental disability or death. A mental disorder is not compensable as an occupational disease unless: (a) the employment conditions producing the mental disorder exist in a real and objective sense; (b) the employment conditions producing the mental disorder are conditions other than conditions generally inherent in every situation or are reasonable disciplinary, corrective, or job evaluation actions by the employer, or cessation of employment; (c) there is a diagnosis of a mental or emotional disorder which is generally recognized in the medical or psychological community; and (d) there is clear and convincing evidence that the mental disorder arose out of and in the course of employment.

Or. Rev. Stat. § 656.005

The North Carolina courts have held that benefits may be awarded for work-related mental illnesses under a catch-all provision of the state's occupational disease statute, which defines a non-listed occupational disease as: "[a]ny disease ... which is proven to be due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation or employment, but excluding all ordinary diseases of life to which the general public is equally exposed outside of the employment." N.C. Gen. Stat. § 97-53(13); Baker v. City of Sanford, 463 S.E.2d 559 (N.C. App. 1995)(evidence supported finding that plaintiff police officer suffered occupational disease of depression resulting from stress associated with homicide investigations; brother's death was not an intervening cause of disability as it was not the result of claimant's own intentional conduct). As in most states, in North Carolina It is not necessary that a work-related injury, including an occupational disease, be the sole cause of the worker's incapacity for work; benefits will be allowed when it is shown that "the employment is a contributing factor to the disability." Rutledge v. Tultex Corp., 308 N.C. 85, 102, 301 S.E.2d 359, 370 (1983).

The mental injuries for which benefits have been awarded In the "gradual onset" cases described above just as easily might have been described as occupational diseases, depending on the language of each state's statute. Yet attempts by states



such as North Carolina to draw a clear line between accident and occupational disease claims are not always practical, and can result in apparently arbitrary results. See, e.g., Lovekin v. Lovekin & Ingle, 140 N.C. App. 244, 535 S.E.2d 610 (2000) (series of stressful events in approximately eight months preceding heart attack did not amount to compensable “accident”; question whether coronary disease may be compensable as occupational disease not presented, therefore not reached)

**D. MENTAL INJURY INDUCED BY JOB LOSS OR CHANGE IN WORKING ENVIRONMENT IS USUALLY NOT COMPENSABLE.**

In a small number of cases, employees who have suffered extreme emotional reactions to notices of job termination have been awarded workers’ compensation benefits for work-related stress. See, e.g., Jones v. District of Columbia Dept. of Employment Services, 519 A.2d 704 (D.C. 1987) (employee died of heart attack during five day suspension while awaiting hearing to determine whether he would be fired after 35 years of employment). For the most part, however, such claims have been held not to be compensable. See, e.g., Esco Corp. v. Industrial Comm’n, 169 Ill. App. 3d 376, 119 Ill. Dec. 833, 523 N.E.2d 589 (1988) (transfers, demotions, and terminations are normal and expected conditions of employment life); Smith & Sanders, Inc. v. Peery, 473 So. 2d 423 (Miss. 1985) (layoffs for economic reasons are not unusual or unexpected, and therefore cannot satisfy the concept of accidental injury).

Employees who allege mental injury as a result of discipline or demotion, rather than termination, may be slightly more likely to prevail on their workers’ compensation claims. See Brown & Root Constr. Co. v. Duckworth, 475 So. 2d 813 (Miss. 1985)(where employer deliberately creates heightened expectation of advancement and then triggers a reaction by doing something worker could reasonably perceive as a betrayal, situation is extraordinary and (court hopes) unlikely to occur). But see Tartaglino v. Department of Correction, 55 Conn. App. 190, 737 A.2d 703, 400 N.Y.S.2d 599 (1977) (emotional distress caused by worry over potential personnel action not compensable).

According to Larson, court decisions awarding benefits to employees with emotional reactions to their employers’ job actions have spurred several state legislatures in recent years to deny coverage for emotional injuries which result from bona fide personnel actions undertaken by the employer. California’s statute was amended in 1993 to prohibit compensation for a psychiatric injury resulting from a “regular and routine employment event” unless the employee has worked at least six months for the employer. Cal. Lab.C. § 3208.3(d). States such as Connecticut, Colorado, Maine, Massachusetts, Missouri, New Mexico, New York, North Dakota, South Carolina, Texas and Utah have enacted legislation barring recovery for mental injuries which result from work evaluation, job transfer, layoff, demotion, termination or similar action taken in good faith by the employer. Larson, supra, 56-40 (citations omitted).

#### **E. EXCLUSION OF PURE MENTAL INJURY CLAIMS FROM WORKERS' COMPENSATION COVERAGE IN CERTAIN STATES.**

At least sixteen states bar recovery for mental injuries unless they are caused or accompanied by physical injury. Many of these jurisdictions have statutes that expressly bar such claims. These include, by way of example, Florida (compensation for mental or nervous injury barred without physical injury); Connecticut (no compensation for mental or emotional impairment unless such impairment arises from a physical injury or occupational disease); and Ohio (psychiatric injuries not resulting from physical injury excluded from coverage). See Larson, supra, §56.06D[4] (listing additionally Alabama, Arkansas (which provides benefits if the worker has been the victim of a violent crime), Georgia, Idaho, Kansas, Kentucky, Minnesota, Montana, Nebraska, Nevada, New Hampshire, Oklahoma, and Wyoming).

One of these states, Montana, appears to bar compensation for mental injury even when it is accompanied by physical injury. See Yarborough v. Montana Municipal Ins. Auth., 938 P.2d 679 (Mont. 1997), rehearing denied, \_\_\_ P.2d \_\_\_ (firefighter struck by ball of fire in burning home and who suffered first and second degree burns denied compensation for permanent disability caused by mental shock and fright).

#### **IV. CONCLUSION**

A review of the law of work-related mental injuries reveals that both courts and legislatures have strained to draw distinctions between the brain and the rest of the body. Such decisions may be motivated by an antiquated view of mental impairments as somehow more the fault of the injured worker than physical impairments, or by a desire to stem a potential flow of stress-related claims. While limitations on the kinds and levels of stress that can be deemed to cause occupational injury are reasonable, it is not logical to draw distinctions between mental and physical impairments. As the Supreme Court of Texas reasoned in Bailey v. American Gen. Ins. Co., 154 Tex. 430, 279 S.W.2d 315 (1955)(since overruled by statute), where a highly skilled steelworker saw his co-worker fall to his death, and would have fallen to his own death also but was caught in a cable, and subsequently developed a fear of heights, periods of "blinking out", violent nightmares, elevated blood pressure and other problems, has he not experienced "damage or harm to the physical structure of his body?" As Larson states, "[t]he physical structure is not just bones and tissues considered as if they were mechanical objects; it is the entire interrelated, living, functioning organism." Larson, supra, 56-17.