# THE GROWTH OF EMPLOYMENT STRESS CLAIMS:

# WORKERS' COMPENSATION, DISCRIMINATION, HARASSMENT AND ACCOMMODATION PROBLEMS

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## INTRODUCTION

Stress related illness is an increasing problem in the work place. A recent Gallup Poll of 201 U.S. corporations revealed the extent of this problem, showing significant percentages of the work force affected by disorders ranging from fatigue and difficulty concentrating, to substance abuse problems, to actual mental illness. In these companies, nearly 60% of all managers felt that stress related illness was pervasive among their workers and decreased productivity at an estimated cost of 16 days of sick leave and $8,000.00 per person per year.

Among stress related illnesses, depression or depressive disorders are estimated alone to cost the American work place a staggering 43 billion dollars per year, including the cost for absenteeism, lost productivity, treatment and rehabilitation, and loss of earnings from accidents and suicide. In addition, work place violence has increased dramatically in the last fifteen years with homicide accounting for 17% of all occupational fatalities. Furthermore, claims of physical and sexual assault, verbal threats or intimidation, and harassment have risen at alarming rates. In conjunction with these claims, the diagnosis of post-traumatic stress disorder has emerged as validation of the harm suffered, and is probably one of the most popular diagnoses in litigation today. Finally, these stress related illnesses do not even begin to take into account physical disabilities such as low-back pain or repetitive motion injury which can have strong psychological and psycho social influences.

While it is clear that stress related illness will affect a worker's productivity and so is a concern to the employer, a number of other questions need to be answered which are common to all industrial stress claims: Is the stress related illness caused by employment or merely incidental to it? What conditions of employment give rise to stress related illness? What special obligations does a stress related illness create for the employer? How do we define what stress related illness really is? How do we measure impairment and/or disability?

## WORKERS' COMPENSATION CLAIMS

Work and stress are almost synonymous. The very nature of work creates forces and pressures on an individual, either from external events or internal drive, that require adaptation. At the outset stress comes from having to be at work at a particular time, remaining there for a prescribed number of hours, accepting the physical demands and requirements, meeting deadlines or quotas, achieving a level of quality or accuracy, and interacting with co-workers and superiors. In the real world, it also includes tolerating personality differences, facing one's own shortcomings, dealing at times with unreasonable authority, facing overwhelming tasks, and answering to the excessive demands of clients or customers. These factors are inherent in work and are not pathologic. Even the distress or discomfort that flows from those obligations is not pathologic. After all, few individuals are completely satisfied with their work and most feel distress on a regular basis. The issue then is not whether there was stress or even distress, but how adaptive or maladaptive was the individual in the face of it. More importantly, did a

maladaptive process lead to an actual stress related illness and, as outlined earlier, how can it be defined or measured? From its inception, workers' compensation law recognized these difficult questions and has sought objectivity, which in stress related illness may be hard to find.

Before the industrial revolution and the development of factories, mills, and plants with their gigantic machinery, agriculture dominated economic life. No doubt injuries occurred but they were relatively few compared to when workers in large numbers were placed in proximity with dangerous machinery and implements of industrial production. If a worker on a farm was hurt, the employer would routinely provide medical help and some financial help through the period of disability. Workers were closer to their employers then and often lived on the farm. If their employer did not help, the worker's only recourse was to sue in common law court, a process that was time consuming and not always successful. In the meantime public charity would bear the burden of the injury.

The predominant claim in a common law suit by a worker was that the employer was somehow negligent, and therefore injury resulted. However, the employer had several advantageous defenses: contributory negligence, assumption of risk, and the fellow-servant rule. In contributory negligence the employer would claim that the worker was partly to blame or that the injury occurred from the worker's own actions. Alternatively, an employer could say that the worker knew the dangers of that employment before coming to work and so there was an assumption of risk that would bar liability. Finally, a number of injuries were not by the employer's actions or employment conditions at all, but due to other fellow workers who may have caused the accident. In these cases the fellow-servant rule prevented blame from being attached to the employer.

These defenses were quite effective for employers during the industrial age as well, so that 80% or more of the cases brought against employers were lost or uncompensated. Similar inequities were seen in Europe where the industrial revolution was also running at full steam. But there in 1884, Otto VonBismark, the first chancellor of the German empire, championed the idea of workmen's compensation legislation. For the first time, injuries were not compensated on the basis of the employer's negligence, but on their relationship to the job. Within a short time England followed the lead and abolished common law workers' suits, instead establishing a formal workmen's compensation system. Liability depended not on who was at fault for the accident but, according to English legal scholars, whether the personal injury by accident arose out of and in the course of employment.

In the early years of the 20th century American legislators also clamored for a similar change of law. By 1911 Massachusetts, which debated the question for nine years, finally passed a workers' compensation law with ten other states changing to a similar system at about the same time. The change was not easily made and understandable opposition came from employers as well as insurance companies who had made large profits from common law coverage. But the Supreme Court of the United States upheld these acts and they gradually became established in every state and for federal employees. Clearly, workers' compensation laws were meant to be a humanitarian measure to create a new type of liability - a liability without fault. Industry was to be responsible but society as a whole, through increased costs of production, would share the loss.

In reality, workers' compensation laws are a compromise for both employee and employer. The employee is denied the right to sue at common law for indefinite damages, but instead receives a certain percentage of wages during the period of disability, and medical care at the employer's (insurer's) expense. The employer, at least in theory, does not have to defend against fault and is only

liable for limited, statutorily set damages. With the rise of workers' compensation claims in the past fifty years, with employers feeling more and more that they are being accused unfairly of fault, and with alternative remedies now available in addition to workers' compensation through federal laws, the premise behind that initial compromise may need to be re-examined.

Traditionally, most workers' compensation acts have required as a part of their coverage formula a personal injury by accident or accidental injury. Emotional or stress related illness was viewed skeptically because of its subjective nature. Objectivity was established by requiring that stress related illness have a physical connection. Two types of claims are found using that connection: physical trauma leading to a mental disorder and mental trauma leading to a physical disorder. These are respectively known as physical-mental and mental-physical.

In the physical-mental cases there is a clear precipitating injury with psychological consequences, e.g. a laborer falls off of scaffolding injuring his back, later develops a major depression, claiming it is due to his newly acquired limitations. In the mental-physical cases some emotional or stress circumstances lead to an objectively measured physical disorder. Originally, the circumstances needed to be clearly identified such as from a nervous shock, e.g. witnessing a disaster at work leads to a heart attack. However, the nature of the emotional stress has expanded to included prolonged or cumulative work stress, and there has been a trend to compensate for many conditions including asthma, peptic ulcer, etc. which are claimed to be a result of that stress. Again, although the stress related illness or the stress circumstances may be subjective, the physical connection is thought to give these claims an objective credibility.

The more controversial category of stress claim is that of mental trauma leading to a mental disorder, also known as the mental-mental claim. The difficulty in evaluating these claims is to a great extent due to the difficulty in defining a personal injury when it consists primarily of an intangible force producing a more intangible effect. Where the injury represents a single or limited sequence of events, then it may be easier to identify its traumatic potential, e.g. a fire at a plant or a robbery in a bank, can be described by the worker or other observers so that the magnitude of the threat, the proximity to the worker, and the likely alarm created can be independently scrutinized. It is quite a different task to attempt the measure the cumulative effects of exposure to some noxious (harmful) aspect of the total work environment, where the perspective of the individuals involved can widely differ. In spite of their subjectivity, stress claims are expanding rapidly and by one legal scholar are called "the most lively development in compensation law in the last fifteen years. " Adding to the problem, and taken from principles of the eggshell skull rule in tort law, are stress related claims that are based only on an aggravation of a pre-existing condition. In effect, this opens the door to a multitude of potential claims because someone with an emotional disorder can invariably say that any work stress at least made it worse.

Many jurisdictions have attempted to limit these mental-mental claims by narrowing the scope of allowable claims or by using more restrictive language. In New Hampshire, where an employee has a preexisting weakness, there is no recovery unless the stress of the work place contributes something substantial, and the employment-connected stress or strain must be greater than is encountered in normal non-employment life. In Oregon, the workers' claim must meet an objective test and is not allowed if it is based on a misperception or an over-reaction to a work environment. Arizona requires that the claimant show that job stress is something other than the ordinary stresses of employment to

which all workers are subjected. In yet other states the nature of the stress must be either a sudden stimulus or an unusual event. In California and Nevada the doctrine of active vs. passive role of employment has been used to shift claims from a subjective to more objective test. Here the determination is whether the employment itself was a positive factor influencing the course of disease as distinguished from a mere stage for the event, an after-the fact rationalization or a mere passive element on which a non-industrial condition happened to have focused. Often, employees who are suffering from emotional disorders will have difficulty in performing their job or relating to others at work. The inevitable consequences of this at work can be a source of stress, but the work situation is only a convenient focus or a retrospective rationalization in which the work place is now blamed for all the problems.

Some of the thornier issues in workers' compensation stress claims have to do with administrative or personnel actions by the employer. For example, if an employee is given a warning or reprimand for poor performance, it is understandable that this would cause stress. Should that then be considered a personal injury arising out of employment conditions? What if the employee was engaged in deliberate misconduct or criminal activity for which the employee was sanctioned or even terminated by the employer? Surely, this would be stressful too, but does it fall under workers' compensation law? What of the stress of a layoff or termination with or without cause? Are these properly considered employment stressors? Courts and industrial boards have been divided on these issues, but claims based on them are now an everyday occurrence. The original compromise and safety net that workers' compensation law intended to provide never envisioned such claims which have been made possible through the concept of stress related illness. Where workers' compensation law has fallen short, new federal laws have provided additional avenues for recovery.

In the last thirty years a number of federal laws have been passed to protect against inequities in employment practices. In addition, Congress created the Equal Employment Opportunity Commission to enforce those laws. One of the first of these was the Equal Pay Act of 1963, which protects men and women who perform substantially equal work in the same establishment from sex based wage discrimination. Shortly after this, Title VII of the Civil Rights Act of 1964 prohibited employment discrimination based on race, color, religion, sex, or national origin. In 1967 the Age Discrimination in Employment Act was established to protect employees forty years of age or older against discriminatory employment practices. Section 501 of the Rehabilitation Act of 1973 prohibited federal sector discrimination against persons with disabilities. In 1980 the Equal Employment Opportunity Commission promulgated regulations, as part of Title VII of the Civil Rights Act of 1964 which prohibited sex discrimination against sexual harassment in the work place. The Americans with Disabilities Act (ADA) of 1990 expanded prohibition of discrimination based on disability to the private sector, and state and local governments. Most recently, the Family and Medical Leave Act of 1993 established a requirement that some workers be allowed up to twelve weeks of unpaid, job guaranteed leave for childbirth, adoption, their own serious illness or that of a close family member.

The psychological issues in which stress related illness may be relevant in these laws can be viewed under three broad categories: discrimination, harassment, and accommodation. Most discrimination claims do not have a primary psychological issue and are decided factually on the basis of whether or not discriminatory practices in violation of federal law occurred. However, the Americans with

Disabilities Act specifically prohibits discrimination based on mental impairment which can be any mental or psychological disorder, such as mental retardation organic brain syndrome, emotional or mental illness, and specific learning disabilities. While mental retardation, brain disease and the more serious mental illnesses can be specifically documented and measured, the law also opens the door to a whole host of emotional conditions and stress related illnesses which, as in compensation stress claims, may be only subjective experiences. The law tries to restrict impairments to those which substantially limit one or more of the major life activities of an individual, but here too there is wide latitude in what can be included. Being substantially limited can mean either unable to perform or significantly restricted which in stress related illness is most often a subjective claim. Furthermore, simply having a record of such an impairment or being regarded (by the employer) as having such an impairment is sufficient to be regarded as disabled. Therefore, employees who may have had a past history of an emotional breakdown would qualify. Certainly such a history should not allow discrimination in hiring today if the applicant is otherwise qualified, but should it sanction special demands of the employer or privileged status in the work place? Similarly, should an employer's concern for emotional stability of an employee in the course of employment automatically establish that a mental impairment exists (because employee is being regarded as impaired) and require special treatment? The problem here is not that individuals with mental disorders do not deserve equal opportunities for employment, but that in stress related illness there is poor definition and little objectivity, so that more can fall into this Act than was ever originally intended by Congress.

Whether as an adjunct to discrimination claims based on mental impairment under the ADA or discrimination under any of the federal laws, a secondary psychological issue is that of emotional damages. The Civil Rights of 1991 amended Title VII permitting plaintiffs to sue under federal law for compensatory and punitive damages, not just for injunctive relief, back pay, and attorney fees. Now emotional distress that flows from the discrimination is also compensated. Again, the same difficulties that were encountered in workers compensation mental-mental claims are found here. Is the type of stress based on a single circumscribed incident that can be clearly identified or is it cumulative stress over a period of time in which the alleged discrimination occurred? Also, what of the emotional suffering that the individual claims to be experiencing; is it simply a subjective state of distress or an identifiable illness? Who can objectively distinguish that?

Although sexual harassment is not specifically included in Title VII of the Civil Rights Act of 1964, it flows by regulation of the Equal Employment Opportunity Commission from sex discrimination. It is defined as unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, when linked to employment conditions, as part of a quid pro quo for employment decisions or when it creates an offensive, hostile work environment. Whether or not sexual harassment occurred is also a factual matter, but invariably psychological issues become embroiled. Both sexual and gender harassment are common problems in the work place for which remedies and prohibition are legitimately necessary. It is estimated by some that up to 60% of victims ignore sexual harassment, believing that if they complain it will only cause more harm. On the other hand, at least some claims of sexual harassment may be only in the eye of the beholder. Both psychological and social questions arise m trying to clarify what type of behavior is harmful or harmless. Also, what type of sensitivity does the employee have to such behavior. Some courts have applied a reasonable woman or reasonable person standard. Since the reasonable man standard in tort law has had its share of criticism for lack of definition, these new limitations may also be difficult to define. Finally, just as in all stress related illness,

the harm claimed as the product of sexual harassment may consist of subjective complaints and symptoms which lack objectivity.

The principle issues of accommodation in the federal laws arise out of the Americans with Disabilities Act. The requirement of reasonable accommodations for a person with a physical disability is more easily interpreted than for those with mental disabilities. While in serious mental illnesses there may be functional limitations which cannot be accommodated, many individuals who are otherwise qualified can function well with minimum adjustments by an employer. The threshold question is whether there is an actual psychological disorder that creates impairment. As indicated above, other than for serious mental or emotional conditions, there is a wide range of distress states which could easily qualify. Second, even if a bonafide disorder exists, not all behaviors are directly attributable to the disorder. If an individual is voluntarily behaving in an inappropriate way, should the employer be responsible for accommodating that behavior? Distinguishing between what kind of behavior is voluntary or involuntary is also not an easy task and may in part be dependent on social norms. Third, the types of accommodations which an employer can provide are only as reasonable as the disability which the employee claims to have. In one survey, the most frequently provided accommodations were: flexible leave, time off for counseling, extra tolerance for unusual behavior, written instructions, and flexible work schedules. It is understandable how such accommodations are not so excessive if they allow a seriously mentally disabled individual to remain in the work force. But it is also easy to see how they can be a convenient luxury for someone simply experiencing distress.

Another area of accommodation is created by the Family and Medical Leave Act, a provision of which entitles some workers to unpaid leave for a serious (mental) health condition. It is further defined as requiring continuing treatment by a health care provider and a period of incapacity In a worker who has suffered a serious mental breakdown requiring hospitalization or otherwise cannot perform usual work functions, it is entirely appropriate that a period of recuperation be allowed when recovery and return to the work force is expected. However, in many stress related illnesses, continuing treatment by a mental health care provider is easily available and incapacity just as easily declared based on subjective symptoms. A number of American corporations have expressed concern that employees are abusing leave privileges and cite a rise in dubious absences since the law took effect. In some instances it has become a tool for a problem employee to avoid discharge for excessive absenteeism.

Therefore, we have seen an expansion of workers' compensation stress claims as less objective criteria for stress related illness are required. Where the remedy under workers' compensation law has been unsuccessful or inadequate, new federal legislation provides alternative remedies that are often more lucrative. It is predicted that where state legislatures or courts tighten workers' compensation stress claims, there will be an increase of claims under federal law such as the Americans with Disabilities Act, Sexual Harassment, and others. And yet, the subjective nature of many of the psychological factors surrounding those claims as well as the stress related illnesses that are their product, may lead to inappropriate use and frank abuse of well-intended laws.

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PSYCHOLOGICAL EVALUATIONS

Most often, opinions regarding stress related illness and disability are made by a mental health provider who is currently treating the employee. This can be a doctor of psychiatry or psychology, social worker, or therapist. The employee usually gives a history of symptoms and circumstances surrounding those symptoms to the doctor, who typically makes a diagnosis and may advise the employee to not return to work for the time being. Later, this treating doctor may be called upon to provide a more extensive report regarding the employee's condition or to testify on behalf of the employee's claim. It is often asserted that the treating doctor is in the best position to give this opinion because he or she has intimate knowledge of the patient and has often been in contact with the patient over a period of time. A number of serious problems arise in this regard. First, the doctor may not be trained in the evaluation of these often quite complex cases. The initial opinion and recommendations may have been given after a brief interview where the history relied almost exclusively on the subjective reports of the employee. Rarely has the treating doctor reviewed in advance recorded information, other opinions, past medical records, or statements from collateral sources. Second, the treating doctor inherently accepts the patient's account and, in the absence of obvious manipulation, becomes allied to the patient's interest. It would be impossible for a treatment relationship to continue if the doctor did not believe the patient or, even worse, expressed an opinion contrary to the patient's position in the claim. Third, the treating doctor, at least in workers' compensation claims, may have adverse financial consequences by not supporting the claim since therapy bills can be dependent on such an opinion.

Independent assessment which includes a thorough understanding of the circumstances of employment, feedback from collateral sources, and a complete history of the employee both medical and psychological, is necessary. There is no way to adequately determine whether or not a mental condition is pre-existing or recent without such a thorough assessment. The claimant's account alone is unreliable because of the natural tendency to emphasize the factors in the claim itself and minimize other issues. Some emotional disorders occur as isolated episodes in time with no history of symptoms preceding. Others have a chronic or cyclical course which can be traced throughout the life of an individual. Still others are episodic, manifesting themselves only a few times throughout the person's life. A proper diagnosis, therefore, can only be made by a thorough understanding of the entire life history.

Certainly stress, especially where it is handled in maladaptive ways, can precipitate an emotional illness. The causes of any illness are usually more complex, involving a variety of biological, psychological, and social factors. However, inordinate stress can be a substantial factor in bringing about the illness. In determining the effect of stress in the work place on the employee, two crucial problems must be addressed. First, mental disorders, by their very nature, interfere with the person's social and occupational functioning. Even disorders that begin for totally unrelated reasons to work, eventually affect work. Poorer work performance can create a negative response from the employer or add a new burden from threat of job insecurity, through demotion or termination. So, just because there is work stress does not necessarily mean that it was the cause of the condition in the first place. Second, the presence of distress alone does not mean that a stress related illness exists which would create impairment or disability. A proper diagnosis is needed and the impairment must be consistent with the diagnosis. Unfortunately, while this distinction may appear to have merit, practically the threshold for psychiatric diagnoses is so low that it is never hard to make a diagnosis. It is a rare mental health provider who will not give a diagnosis to any person who walks through their door with a problem.

Although for the most part there are a limited number of diseases which afflict human beings, there have been ever growing numbers of diagnoses. Nowhere is this more apparent than in psychiatry and documented by the expansion of diagnostic categories over four volumes of the Diagnostic and Statistical Manual of Mental Disorders. It is possible today to find a diagnosis for any type of human distress or behavior. Likewise, when the epidemiology of various psychiatric diagnosis is explored as to the percentage of the population afflicted, no one can escape a diagnosis. Adding to that are the various faddish syndromes which are not diagnoses at all, but merely labels describing the interaction of individuals with each other or with their environment, e.g. battered wife syndrome, empty nest syndrome, sick building syndrome, etc. This shift to an illness rather than health orientation has many sociologic underpinnings, so that in the end the new diseases are pure value judgement: biology applied under the dictates of social interest. While this trend can be seen in all of medicine, psychiatric labeling is the most dangerous. In the past this has led to discrimination, confusing health with disease and disease with badness. In modern times it is leading from disease to privilege. In the work place this translates into the special status and damage remedies of many stress related illnesses.

Not only are there more diagnoses to choose from but many of the diagnoses themselves have vague and entirely subjective criteria that are easily met if a claimant is emphasizing distress. In illnesses such as schizophrenia there are such unique and dramatic symptoms (delusions, hallucinations, or disorganization) which are not easily confused with ordinary human suffering. But in depressive disorders the range of possibilities from the least severe to the most severe types are based to a great extent on the intensity of the suffering that the individual conveys. Many of the specific criteria of the most severe type, major depressive episode, are helpful clinically to identify biological illness processes. However, many of those same criteria can be met by any person who is conveying distress (depressed mood, diminished interests, poor sleep, tiredness, and difficulty with concentration). One of the more popular diagnoses today, post-traumatic stress disorder, has evolved from the more narrow concepts of shell shock or battle fatigue in which an out of the ordinary stressor stunned the individual into an altered state of awareness and reactivity and caused an intrusive and involuntary reliving of the traumatic event. This diagnosis has now been expanded to include just about any stressful situation and the claim often rests on no more than remembering the event with distress. The actual and detailed criteria contained in the official diagnosis are frequently twisted and have practically become almost meaningless. Lately, and without scientific basis, therapists having made the diagnosis of post-traumatic stress disorder, conclude that the profile is so typical of someone who has been traumatized that the inherence of an actual trauma is made in the evaluation. Psychological evaluations must therefore scrutinize the types of symptoms and disorders claimed, bearing in mind the subjective nature of many of these stress related illnesses and the ease in which a disease label can be attached.

Frequently distress is a result of an Occupational Problem that results from job dissatisfaction, uncertainty about employment, reaction to reprimand or warning, and threatened or actual termination. While much subjective distress can be conveyed, it does not necessarily result in a legitimately diagnosable disorder. These personnel, administrative, and occupational problems often precede or are the backdrop of workers compensation, discrimination, harassment, and other industrial stress claims. Psychological evaluations need to focus on personality characteristics of the employee as obtained from complete assessment of the individual through interviews and psychological testing, as well as from reports of behavior in and outside of the work place. Many personality disorders create an unusual sensitivity through suspiciousness of others, reading hidden meaning into remarks,

unforgiveness of insults, impulsivity, mood instability, inappropriate intense anger, or fluctuating intense patterns of interpersonal relationships. These employees can create chronic problems in a work environment, and when their own behavior leads to untoward consequences, may initiate an industrial stress claim. It is important to note that these personality disorders are not just passive weaknesses on which the stress of employment has a greater effect, but represent an active process that perpetuates its own difficulties.

ANALYSIS

The increase in claims for stress related illness in the work place is not explained by one set of factors alone. Complex social and cultural trends are responsible. In the early history of the United States a selfsufficient and stoic attitude promoted individual responsibility. For right or wrong, mental illness and disability was considered a weakness. Of course, this stigma disadvantaged the unfortunate individuals who suffered from such illness, artificially segregating them from the rest of society. Advances in medicine and psychiatry over the last hundred years have helped identify biological and psychological disorders which have scientifically identified origins and characteristics. To reject this is to place us back in earlier, unenlightened, blamecasting mentality. Modern psychiatric and psychological treatment has offered new hope to emotional distress and the favorable resolution of mental illness states is a regular feature of therapeutic practice. However, progress in mental health treatment, as in many new scientific technologies, is accompanied by dangers and abuse. The subjective nature of some mental disorders and the overlap between illness and ordinary distress create a problem in definition that has facilitated that abuse. As discussed earlier, this trend for finding disease is by no means limited to psychiatry, since our society as a whole has become increasingly medicalized. As the stigma of illness is leaving, the attention to health rather than illness is disappearing. The range and relativity of health, based on individual variance, social and cultural differences, are lost in favor of narrow stereotypes. Growing numbers of psychiatric diagnoses with indefinite criteria which label the continuum of human behavior, inadvertently promote this process and help validate mounting industrial stress claims.

In addition to increased medicalization within our society, a number of other trends within society generally and, industry in particular, may be instrumental in the rise of industrial stress claims. Not the least of these is the increasingly litigious nature of our society. Growing numbers of lawyers, higher damage awards and flexible theories of liability are testament to this. Litigation is fueled also by changing attitudes toward and mistrust of our institutions. Legal, medical, religious, governmental and corporate institutions are the constant object of criticism within our media and the average person sees them as self-serving and exploitative. Employees are no longer as loyal to the organization, since they see employers no longer as protective. Job instability created through layoffs and downsizing, decreased buying power of wages, the disappearance of many types of jobs, and the lack of guarantees for a career within an organization have resulted in a work force that is shaken and insecure. It is no wonder that litigation through industrial stress claims has been a vehicle for self-preservation.

Finally, there may in fact be greater pressures in the work place with the higher demands of technology and specialization. Today's faster pace, more rapid transportation and communication put greater demands on the worker both in skills and performance. In order to compete, many companies have become lean and mean, expecting more than is often possible from their workers. Adding to this is the phenomenon of Americans working long hours for higher income while spending almost everything they

earn beyond life's necessities on consumer goods. This cycle of work and spend, over the past fifty years, has increased the amount of goods workers produce in an hour. But rather than create greater leisure, the number of hours worked has also increased. Through debt and habit, each higher level of material achievement appears to become a necessity which creates even a greater need to work and spend.

Therefore, industrial stress claims must be looked at historically in light of broadening workers' compensation allowance, newer federal avenues of recovery, medicalization of society, and sociocultural shifts in the work place. Although applicable laws can provide a needed safety net for injured workers, the subjective nature of many mental illness diagnoses coupled with the subjective definitions of those laws, can also create an abused privilege. Psychological evaluations in these areas must strive for as much objectivity as possible by widening the scope of inquiry to more than the distress of the worker.