



1995

Stress Claims under the Workers' Compensation Act of Maryland

Lauren A. Sfekas

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/lf>



Part of the [Workers' Compensation Law Commons](#)

Recommended Citation

Sfekas, Lauren A. (1995) "Stress Claims under the Workers' Compensation Act of Maryland," *University of Baltimore Law Forum*: Vol. 25 : No. 3 , Article 2.

Available at: <http://scholarworks.law.ubalt.edu/lf/vol25/iss3/2>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.

STRESS CLAIMS UNDER THE WORKERS' COMPENSATION ACT OF MARYLAND

Lauren A. Sfekas

In Maryland, as in many states,¹ the legislature has enacted a comprehensive set of workers' compensation laws designed to provide monetary benefits and necessary medical care to employees who suffer work-related injuries.² Under the Maryland statute, an injured worker is entitled to compensation if he sustains an accidental personal injury.³ The statute defines an accidental personal injury as "an accidental injury that arises out of and in the course of employment."⁴ Case law has further defined the term "accidental injury" to include only those injuries which result from "some unusual strain, exertion, or condition of employment."⁵

The Maryland Workers' Compensation statute provides benefits not only for accidental injuries, but also for occupational diseases.⁶ The courts have defined an occupational disease as "some ailment, disorder, or illness which is the expectable result of working under conditions naturally inherent in the employment and inseparable therefrom, and is ordinarily slow and insidious in its approach."⁷ To recover, a claimant must suffer a disability which is "due to the nature of an employment in which hazards of the occupational disease exist."⁸

The law is well settled that a physical injury which results from an accidental injury or occupational disease is compensable.⁹ Recently, an increasing number of workers have filed claims seeking compensation for stress-related mental injuries. Claims for mental stress have increased faster than any other type of claim for workers' compensation.¹⁰ Because these cases provide difficult causation issues due to the vague nature of stress and the realization that emotional illness is often

caused by co-existing factors,¹¹ the courts have struggled to provide an objective framework for determining the compensability of the increasing number of claims for stress-related injuries.

There are many different types of mental stress claims. The claims have developed primarily into three categories -- physical-mental claims, in which a physical trauma results in a mental injury; mental-physical claims, in which a mental stimulus results in a physical injury; and mental-mental claims, in which a mental stimulus causes mental injuries.

The purpose of this article is to examine the current treatment of stress claims in Maryland, particularly in light of the recent decisions by the Court of Appeals of Maryland in *Belcher v. T. Rowe Price Foundation, Inc.*¹² and *Davis v. Dyncorp*.¹³

I. Physical-Mental Claims

A physical-mental claim arises when a physical injury results in a mental condition. For example, a worker may sustain a physical injury in an accident. The physical injury then causes the worker to suffer anxiety which prolongs or increases the disability. Across the country, claims of this nature are found to be totally compensable, including the effects of the emotional disability.¹⁴ Courts have long recognized that the physical injury itself helps to establish the validity of the mental injury and its causal connection to the accident.

The Court of Appeals of Maryland recognized the compensability of physical-mental claims as early as 1924 in *Bramble v. Shields*.¹⁵ In *Bramble*, the claimant suffered a physical injury and thereafter became con-

About the Author: Lauren A. Sfekas is a sole practitioner in Greenbelt, Maryland, where she has developed an extensive workers' compensation practice. Ms. Sfekas is a 1981 graduate of the University of Baltimore School of Law and is a former editor of the *University of Baltimore Law Review*.

vinced that his backbone was decaying.¹⁶ This delusion caused him to be permanently disabled. The doctors indicated that his psychological condition was related to the stress which resulted from the accident.¹⁷ The court of appeals affirmed the jury's verdict, finding that the claimant's mental disorder was compensable because it was causally related to the original accidental injury at work.¹⁸ Claims of this nature are also compensable even if the claimant suffered from a pre-existing mental illness, provided the illness was aggravated by the physical injury sustained at work.

II. Mental-Physical Claims

A mental-physical claim occurs when a claimant suffers a physical injury or illness that results from a mental occurrence. For instance, a claimant may witness a shocking event which causes him to have a heart attack. Maryland,¹⁹ as well as all other states,²⁰ has consistently ruled that claims of this nature are compensable. Some states require that the mental stimulus be sudden.²¹ Others allow compensation even if the mental stimulus is gradual and a sudden, specific event cannot be pinpointed.²² Causal connection, of course, is more readily established when the physical injury immediately follows the sudden mental stimulus.

The most notable mental-physical case in Maryland is *J. Norman Geipe, Inc. v. Collett*.²³ In *Geipe*, the claimant, a truck driver, accidentally ran over another man. As a result, Geipe developed immediate paralysis, had to be removed from his truck, and was taken to the hospital. It was subsequently discovered that he had suffered a cerebral hemorrhage.²⁴ The court found that the cerebral hemorrhage and the resulting paralysis suffered by Geipe were physical in nature,²⁵ and specifically stated that an accidental personal injury results if there is a nervous shock that produces a physiological injury.²⁶

The compensability of mental-physical claims was reaffirmed in *Sargent v. Board of Education of Baltimore County*.²⁷ Sargent was employed by the Board of Education as a custodian. Part of her job description required that she clean boilers once a year.²⁸ The boilers were very dark and sooty and it was necessary to enter the boiler by laying horizontally on a board which slid

through a small opening.²⁹ Sargent, who suffered from claustrophobia, blacked out immediately upon entering the boiler.³⁰ Initially, the court noted that the cleaning of the boilers was an unusual condition even though it was included in her overall job description.³¹ The employer, however, contended that the injury was still not compensable because it arose from the mental condition of claustrophobia and was not accompanied by physical injury. After noting that Sargent blacked out for several hours, the court concluded that this was a sufficient physical reaction to qualify as an accidental injury.³²

In Maryland, it is clear that before a mental-physical claim can be classified as a compensable accidental injury, it must meet the statutory definition of accidental injury. The mental stimulus must be unusual and extraordinary to be compensable. Physiological injuries which result from the ordinary stresses of life, or from gradual stress which cannot be classified as unusual, are not compensable in Maryland.³³ In *Whiting-Turner Contracting Co. v. McLaughlin*,³⁴ the court denied coverage for a claimant who suffered a stroke following an argument at work. The court explained that before a claim for stress can be compensable, it must amount to more than the stress encountered in the average daily life.³⁵

Although a physical injury caused by gradual mental stress would not be compensable as an accidental injury, it may be compensable as an occupational disease, provided the claimant can show that the disability is "due to the nature of the employment in which the hazards of the occupational disease exist."³⁶ This issue, however, has never been definitively decided in Maryland.

III. Mental-Mental Claims

In all of the above categories, the law is relatively settled. A much greater controversy, however, has arisen over "mental-mental claims." A claim of this nature arises when a mental stimulus results in a mental or psychological injury. The issue of causation is much more difficult in this type of claim because there is no physical force which precisely establishes either the

In Maryland, it is clear that before a mental-physical claim can be classified as a compensable accidental injury, it must meet the statutory definition of accidental injury.

cause or the extent of the injury. The emerging trend, however, is to allow recovery in such cases.³⁷

In states that allow recovery for mental-mental claims, some hold that such claims are compensable only if there is a specific traumatic stimulus.³⁸ Other states allow compensation for injuries which result from gradual stress.³⁹

For a mental-mental claim to be compensable in Maryland as an accidental injury, the claimant must show that the stress encountered was "unusual."⁴⁰ As previously discussed, a claim for mental stress as an occupational disease will be allowed only if the claimant can show that the mental injury is due to the nature of the employment in which the hazards of the occupational disease exist.⁴¹

In *Belcher v. T. Rowe Price Foundation, Inc.*,⁴² the Court of Appeals of Maryland had its first opportunity to determine whether purely mental injuries, without any physical components, are compensable under the Workers' Compensation Act. In that case, Belcher was employed in downtown Baltimore by T. Rowe Price as a secretary. She was sitting at her desk when a three-ton beam being hoisted by a construction crane came loose and crashed through the ceiling, landing five feet from her desk.⁴³ As a result of the traumatic incident, she suffered sleep disturbance, nightmares, heart palpitations, chest pains, and headaches. She developed serious emotional problems and came under the care of a psychiatrist who diagnosed her as suffering from post-traumatic stress disorder.⁴⁴ Unlike the claimants in *Geipe* and *Sargent*, Belcher never received treatment for any physical complaints.⁴⁵ Her claim for benefits was denied by the Workers' Compensation Commission.⁴⁶

In its analysis, the *Belcher* court sought to determine whether the phrase "accidental personal injury" encompasses "mental" injuries. Because the Workers' Compensation Act does not define the term "injury," the court reviewed the case law defining "accidental personal injury" as used in the Workers' Compensation Act, but found no definitive answer.⁴⁷ Therefore, the court turned to tort cases for guidance.

The court found that "physical injury" as defined by case law includes "demonstrable emotional distress"⁴⁸ and that damages may be recovered for emotional distress capable of objective determination.⁴⁹ The *Belcher* court stressed, however, that the harm must be capable of objective determination so as to provide

assurance that a claim is not spurious.⁵⁰ Where the harm is capable of objective determination and the mental distress appears to be real, no good reason can be found for denying recovery.⁵¹

After examining Maryland tort law, the court reviewed the philosophy of the Workers' Compensation Act, which is to provide financial support and medical benefits to victims of work-related accidents.⁵² The court noted that the inability to work and the loss of earnings are the same whether pursued under the Act or by way of damages in a tort action. Consequently, the court concluded that the concept of "physical injury" adopted in determining damages in torts cases should also apply to the concept of "personal injury" in awarding benefits in workers' compensation claims⁵³ and that the recovery allowed under the Workers' Compensation Act should be similar to the recovery allowed in torts. The court stated that "[t]he provisions of the Act do not prohibit it; expediency has not proved to be a deterrent; the advances in medical science make it feasible; logic supports it; the needs of society require it."⁵⁴

After concluding that claims from mental injury are compensable under the Workers' Compensation Act, the *Belcher* court cautioned that merely showing that a mental injury was related to general conditions of employment or incidents occurring over an extended period of time is not enough to entitle the claimant to compensation.⁵⁵ The mental injury must be precipitated by an event that is unexpected and unforeseen.

Consistent with the accidental injury requirement of Article 101,⁵⁶ the *Belcher* court rejected the notion that mental injury caused by gradual stress is compensable as an accidental injury. However, the *Belcher* court left open whether a claim for injuries caused by gradual stress is compensable as an occupational disease.

Recently, in *Davis v. Dynacorp*,⁵⁷ the court of appeals was called upon to address the compensability of a mental-mental claim as an occupational disease. In *Davis*, the claimant sought compensation for a mental disease which resulted from on-the-job harassment.⁵⁸ The claimant alleged that as a result of the harassment, he experienced restlessness, sleeping problems, headaches, and developed post-traumatic stress syndrome, all of which prevented him from returning to work.⁵⁹ The claimant asserted that he was entitled to workers' compensation benefits because he had suffered a disabling occupational disease.⁶⁰

Initially, the court of appeals addressed the issue of whether *Belcher* precluded recovery as a matter of law for post-traumatic stress syndrome arising from harassment by fellow employees. The court concluded that *Belcher*, which states that “a mere showing that a mental injury was related to general conditions of employment, or to incidents occurring over an extended period of time, does not entitle the claimant to compensation,”⁶¹ is specifically limited to accidental injury claims and is not controlling in connection with claims for occupational disease.⁶² Having concluded that Davis’ claim was not prohibited by *Belcher*, the court went on to address whether Davis had shown that harassment was a hazard within the nature of his employment, as required by the Maryland Workers’ Compensation Act. Davis was a computer operator and the court stated that harassment by fellow employees is not a hazard within the nature of the employment as a computer data operator. There was nothing peculiar to his activities that made him more susceptible to harassment than employees in other types of employment.⁶³ Accordingly, because the mental disease caused by Davis’ job harassment could not reasonably be characterized as due to the general character of his employment, the court held that Davis did not suffer from a compensable occupational disease.⁶⁴

In its opinion, the court expressly stated that it was not “willing to rule out the possibility that some gradually resulting, purely mental diseases could be compensable occupational diseases or that there may be circumstances where work-induced stress may result in a compensable occupational disease.”⁶⁵ By limiting its ruling to the issue of whether the harassment suffered by Davis was due to the nature of his specific employment, the court left open the question of whether mental stress would be compensable as an occupational disease if the claimant could show that it was due to the nature of employment in which the risk of stress exists. If the claimant were able to prove this requirement, it appears that the court of appeals would allow compensation for such a claim.

Conclusion

As stress in the workplace continues to increase, stress-related compensation claims will rise proportionately. Maryland, as well as all other jurisdictions, has a long history of allowing recovery for mental stress claims, provided there is some physical component to

the claim. If the stress results from a compensable physical trauma, or if a stressful incident results in a physiological reaction, recovery is routinely allowed. The compensability of purely mental claims, however, continues to generate controversy. With the decisions in *Belcher v. T. Rowe Price Foundation, Inc.* and *Davis v. Dynacorp*, Maryland is clearly following the trend of allowing a worker to recover for mental stress even in the absence of any physical injury.

ENDNOTES:

¹ All states have had some form of workers’ compensation system since 1949. 1 Larson’s Workmens’ Compensation § 5-30.

² Md. Code Ann., Labor & Employment §§ 9-101-1201 (1991).

³ § 9-501(a)(1).

⁴ § 9-101(b)(1).

⁵ See *Bethlehem Steel Co. v. Golombieski*, 231 Md. 124, 188 A.2d 923 (1963); *Kelly-Springfield Tire Co. v. Daniels*, 199 Md. 156, 85 A.2d 795 (1952); *Sargent v. Board of Educ. of Baltimore County*, 49 Md. App. 577, 433 A.2d 1209 (1981); *Whiting-Turner Contracting Co. v. McLaughlin*, 11 Md. App. 360, 274 A.2d 390 (1971).

⁶ Md. Code Ann., Labor & Employment § 9-502(c) (1991).

⁷ See *Foble v. Knefely*, 176 Md. 474, 486, 6 A.2d 48, 53 (1939).

⁸ Md. Code Ann., Labor & Employment § 9-502(d)(1)(i) (1991).

⁹ In defining “accidental injury,” many cases state that it is a physical injury produced by an unusual or extraordinary condition. E.g., *Caled Prods. Co. v. Sausser*, 199 Md. 514, 520, 86 A.2d 904, 906 (1952); *Baltimore & Ohio R.R. v. Zapf*, 192 Md. 403, 410, 64 A.2d 139, 142 (1949); *Schemmel v. T.B. Gatch & Sons Contracting & Bldg. Co.*, 164 Md. 671, 680, 166 A. 39, 42-43 (1933).

¹⁰ 1B Larson’s Workermen’s Compensation § 42.25(a); 18 Colo. Law. 1529 (1989); Victoria L. Ruhga, Comment, *Mental Stress and Workers’ Compensation in Nebraska*, 69 Neb. L. Rev. 842 (1990).

¹¹ Daniel J. Freedenburg, M.D., *Stress in the Workplace*, 17.2 U. Balt. L.F. 31 (1987).

¹² 329 Md. 709, 621 A.2d 872 (1993).

¹³ 336 Md. 226, 647 A.2d 446 (1994).

- ¹⁴ 1B Larson's Workmen's Compensation, §42.22(a); e.g., *Fruehauf Corp. v. Prater*, 360 So.2d 999 (Ala. Civ. App. 1978); *American Smelting & Ref. Co. v. Industrial Comm'n*, 123 P.2d 163 (Ariz. 1942); *Watson v. Melman, Inc.*, 106 So.2d 433 (Fla. Dist. Ct. App. 1958); *Berger v. Hahner, Foreman & Cale, Inc.*, 506 P.2d 1175 (Kan. 1973); *Bramble v. Shields*, 146 Md. 494, 127 A. 44 (1924); *Workmen's Compensation Appeal Bd. of Pa. v. F.W. Woolworth Co.*, 338 A.2d 784 (Pa. Commw. Ct. 1975).
- ¹⁵ 146 Md. 494, 127 A. 44 (1924).
- ¹⁶ *Id.* at 500, 127 A. at 46.
- ¹⁷ *Id.* at 503, 127 A. at 46.
- ¹⁸ *Id.* at 506, 127 A. at 48.
- ¹⁹ E.g., *J. Norman Geipe, Inc. v. Collett*, 172 Md. 165, 190 A. 836 (1937); *Sargent v. Board of Educ. of Baltimore County*, 49 Md. App. 577, 433 A.2d 1209 (1981).
- ²⁰ See, e.g., *Travelers Ins. Co. v. Heidelberger*, 593 S.W.2d 70 (Ark. Ct. App. 1980); *George L. Eastman Co. v. Industrial Accident Comm'n*, 200 P. 17 (Cal. 1929); *Harris v. Rainsoft of Allen County, Inc.*, 416 N.E.2d 1320 (Ind. Ct. App. 1981); *Klein v. Len H. Darling Co.*, 187 N.W. 400 (Mich. 1922).
- ²¹ 1B Larson's § 42.21(a).
- ²² 1B Larson's § 42.21(c).
- ²³ 172 Md. 165, 190 A. 836 (1937).
- ²⁴ *Id.* at 168, 190 A. at 838.
- ²⁵ *Id.* at 169-71, 190 A. at 839-40.
- ²⁶ *Id.* at 171, 190 A. at 840.
- ²⁷ 49 Md. App. 577, 433 A.2d 1209 (1981).
- ²⁸ *Id.* at 578-79, 433 A.2d at 1210.
- ²⁹ *Id.* at 579, 433 A.2d at 1210.
- ³⁰ *Id.* at 579, 433 A.2d at 1210-11.
- ³¹ *Id.* at 582, 433 A.2d at 1212.
- ³² *Id.* at 584-85, 433 A.2d at 1213.
- ³³ *Belcher v. T. Rowe Price Found., Inc.*, 329 Md. 709, 739, 621 A.2d 872, 887 (1992).
- ³⁴ 11 Md. App. 360, 274 A.2d 390 (1971).
- ³⁵ *Id.* at 368, 274 A.2d at 394-95.
- ³⁶ Md. Code Ann., Labor & Employment §9-502(d)(1)(i) (1991).
- ³⁷ E.g., *Brock v. Industrial Comm'n*, 486 P.2d 207 (Ariz. Ct. App. 1971); *Cooper v. Workers' Comp. Appeals Bd.*, 218 Cal. Rptr. 783 (Cal. Dist. Ct. App. 1985); *Battista v. Chrysler Corp.*, 454 A.2d 286 (Del. Super. Ct. 1982); *Simon v. R.H.H. Steel Laundry, Inc.*, 95 A.2d 446 (Hudson County Ct. 1953).
- ³⁸ 1B Larson § 42.23.
- ³⁹ 1B Larson § 42.23(b).
- ⁴⁰ See *supra* note 5.
- ⁴¹ Md. Code Ann., Labor & Employment § 9-502(d)(1)(i) (1991); *Davis v. Dyncorp*, 336 Md. 226, 647 A.2d 446 (1994).
- ⁴² 329 Md. 709, 621 A.2d 872 (1993).
- ⁴³ *Id.* at 713, 621 A.2d at 874.
- ⁴⁴ *Id.* at 714-15, 621 A.2d at 874-75.
- ⁴⁵ *Id.* at 715, 621 A.2d at 875.
- ⁴⁶ *Id.* at 712, 621 A.2d at 873.
- ⁴⁷ *Id.* at 719-22, 621 A.2d at 877-79.
- ⁴⁸ *Id.* at 734, 621 A.2d at 884.
- ⁴⁹ *Id.*
- ⁵⁰ *Id.* at 735, 621 A.2d at 885.
- ⁵¹ *Id.* at 736-39, 621 A.2d at 885-87.
- ⁵² *Id.* at 736-39, 621 A.2d at 885-86.
- ⁵³ *Id.* at 738, 621 A.2d at 886.
- ⁵⁴ *Id.*
- ⁵⁵ *Id.* at 739-40, 621 A.2d at 887.
- ⁵⁶ Md. Code Ann., Labor & Employment § 9-501(1); see *supra* note 5.
- ⁵⁷ 336 Md. 226, 647 A.2d 446 (1994).
- ⁵⁸ *Id.* at 228, 647 A.2d at 447.
- ⁵⁹ *Id.*
- ⁶⁰ *Id.* at 228-29, 647 A.2d at 447.
- ⁶¹ *Belcher*, 329 Md. at 739-40, 621 A.2d at 887 (quoting *Sparks v. Tulane Med. Ctr. Hosp. & Clinic*, 546 So.2d 138, 147 (La. 1989)).
- ⁶² 336 Md. at 232, 647 A.2d at 448.
- ⁶³ *Id.*
- ⁶⁴ *Id.* at 238, 647 A.2d at 452.
- ⁶⁵ *Id.*