

1993

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Recommended Citation

Erwin, Judith P. (1993) "Worker's Compensation Law: Stress Related Injury in the Workplace (University of Florida v. Massie, 602 So. 2d 516 (Fla. 1992))," *University of Florida Journal of Law & Public Policy*. Vol. 5: Iss. 2, Article 5.

Available at: <https://scholarship.law.ufl.edu/jlpp/vol5/iss2/5>

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WORKERS' COMPENSATION LAW: STRESS RELATED INJURY IN THE WORKPLACE*

University of Florida v. Massie, 602 So. 2d 516 (Fla. 1992)

Respondent applied for modification of a previous order by the Deputy Commissioner of the Florida Department of Labor and Employment Security¹ that denied him workers' compensation benefits for the disabling aggravation of his multiple sclerosis, allegedly caused by job-related stress.² The Deputy Commissioner denied Respondent's request for modification.³ On appeal, the Florida First District Court of Appeal reversed the denial and remanded the case.⁴ On a petition for review,⁵ the Florida Supreme Court quashed the appellate court decision and remanded with directions that the Deputy Commissioner's order be affirmed,⁶ and HELD, that Respondent was not entitled to workers' compensation for exacerbation of his multiple sclerosis,⁷ because the awarding of compensation for job-related stress that exacer-

* *Editor's Note:* This comment received the *Huber Hurst Award* for the outstanding case comment submitted in the Fall 1992 semester.

1. *University of Fla. v. Massie*, 602 So. 2d 516 (Fla. 1992). Respondent in this case was employed as Director of Engineering for a television-radio station. In his original application for workers' compensation benefits, Respondent asserted that excessive work hours, extending up to 18 hours a day and for up to seven days a week, coupled with the stress of being pressured by the FM Station Manager to purchase equipment in a manner that did not comport with state regulatory and statutory requirements, imposed stress that exacerbated his multiple sclerosis ("MS"). *Id.* at 518. The exacerbation of his MS ultimately resulted in Respondent's inability to work. *Id.* In denying Respondent's claim for compensation, the Deputy Commissioner found that the stress to which the Respondent was subjected was not greater than that to which the general public is exposed. *Id.* at 519. Further, the Deputy found that stress is in the nature of a psychological trauma, and therefore not compensable. *Id.* On Respondent's appeal, the Florida First District Court of Appeal affirmed the Deputy Commissioner's (*Massie I*) finding and reasoned that expert testimony indicated Respondent's stress was not "unusual" and that job stress was difficult for "everyone." *Id.*

2. *Id.* at 518.

3. *Id.* at 520.

4. *Massie v. University of Fla.*, 570 So. 2d 963, 977 (Fla. 1st D.C.A. 1990). In reversing the Deputy Commissioner's denial of benefits, the appellate court (*Massie II*) said that the prior decision was predicated on an erroneous factual premise which resulted in "manifest injustice." *Id.*

5. *Massie*, 602 So. 2d at 517.

6. *Id.* at 526-27.

7. *Id.* at 526.

bates a pre-existing physical defect is contrary to the existing workers' compensation statute.⁸

Historically, workers relied on the common law of tort liability to seek compensation from employers for job-related injuries.⁹ However, the claims were frequently defeated.¹⁰ Seeking to rectify the injustices of the system,¹¹ states enacted workers' compensation statutes.¹²

In Florida, the workers' compensation statute provides coverage for employees injured through course of employment.¹³ Although there

8. *Id.*

9. Christy DeVader & Andrea Giampetro-Meyer, *Reducing Managerial Distress About Stress: An Analysis and Evaluation of Alternatives for Reducing Stress-Based Workers' Compensation Claims*, 31 SANTA CLARA L. REV. 1 (1990).

10. *Id.* at 2-3. Prior to enactment of Workers' Compensation statutes, workers injured in the course of employment could seek recovery for their injuries only by suing the employer under the common law of tort liability. *Id.* at 2. Since the courts required the injured worker to prove fault by the employer, the claims usually failed. *Id.* Employers were usually able to successfully defend against the claims by proving assumption of the risk, contributory negligence, or the fellow servant rule. *Id.* If an employee was successful, the amount recovered seldom compensated his loss of income. The awards generally covered little more than medical expenses and legal fees. European legislatures were first to address the problem by enacting statutes. *Id.* Maryland was the first state to initiate a workers' compensation statute in 1902. *Id.* at 3. By 1911 twenty-five states had passed similar statutes. *Id.*; see also Thomas Cook, *Workers' Compensation and Stress Claims: Remedial Intent and Restrictive Application*, 62 NOTRE DAME L. REV. 879 (1987) (estimating 80% of injured workers unable to recover for job related injuries before workers' compensation statutes passed); Letitia Mallin, Note, *Disease, Not Accident: Recognition of Occupational Stress Under the Workmen's Compensation Laws*, 13 COLUM. J. OF ENVTL. L. 357 (1988) (stating compensation laws enacted to reduce burden on worker injured because of his job); *Schlemmer v. Buffalo, Rochester & Pittsburgh Ry.*, 220 U.S. 590 (1911) (denying recovery to widow of worker killed in course of employment because of worker's contributory negligence when attempting to couple railroad cars); *Meunier v. Chemical Paper Co.*, 61 N.E. 810 (Mass. 1901) (denying recovery to employee for hand injured in course of employment because of employee's failure to use due care); *Loynes v. Loring B. Hall Co.*, 80 N.E. 472 (Mass. 1907) (denying compensation to employee for injury sustained to hand while operating equipment on job because "risk was an obvious one").

11. *Massie*, 602 So. 2d at 528. The policy driving the initiation of workers' compensation turned on the notion that society, as opposed to the injured worker, should bear the burden of industrial accidents. *Id.*; see also Francis Bohlen, *A Problem in the Drafting of Workmen's Compensation Acts*, 25 HARV. L. REV. 330 (1912). The theory was that if employers assumed the cost of employee injury, ultimately the cost would be passed on to consumers through increased prices. "The consumer should bear, as part of the cost of the article which he uses, all the loss which its manufacture entails, including the destruction and impairment of the human instrument of manufacture. . . ." *Id.* at 330.

12. WEX MALONE ET AL., *WORKERS' COMPENSATION AND EMPLOYMENT RIGHTS 37* (1980) (stating that when Mississippi adopted a workers' compensation statute in 1949, the system became universal).

13. FLA. STAT. § 440.09 (1992). Section 440.09 reads in pertinent part, "(1) Compensation

are jurisdictions that accept mental stress as sufficient causation to support a workers' compensation claim for a physical injury,¹⁴ the Florida Supreme Court has interpreted the Florida Statute¹⁵ as not allowing compensation for an injury based on mental stress.¹⁶ In denying claims averring job-related stress, the court has reasoned that stress is common to most jobs¹⁷ and, therefore, does not meet the test for compensable injuries first articulated in *Victor Wine & Liquor, Inc. v. Beasley*.¹⁸

shall be payable under this chapter in respect of disability or death of an employee if the disability or death results from an injury arising out of and in course of employment." FLA. STAT. § 440.09(1) (1992).

FLA. STAT. § 440.02 defines injury as, "(17) 'Injury' means personal injury or death by accident arising out of and in the course of employment, and such diseases or infection as naturally or unavoidably result from such injury This damage must specifically occur as the result of an accident in the normal course of employment." FLA. STAT. § 440.02(17).

FLA. STAT. § 440.02 defines accident as:

(1) "Accident" means only an unexpected or unusual event or result, happening suddenly. A mental or nervous injury due to stress, fright or excitement only, or disability or death due to the accidental acceleration or aggravation of a venereal disease or a disease due to the habitual use of alcohol or controlled substances or narcotic drugs, shall be deemed not to be an injury by accident arising out of employment. Where a preexisting disease or anomaly is accelerated or aggravated by an accident arising out of and in the course of employment, only acceleration of death or acceleration or aggravation of the preexisting condition reasonably attributable to the accident shall be compensable, with respect to death or permanent impairment.

FLA. STAT. § 440.02(1) (1992). This subsection was numbered 440.02(18) in 1981 when Respondent's employment with Petitioner was terminated. *Massie*, 602 So. 2d at 521 n.4.

14. ARTHUR LARSON, *THE LAW OF WORKMEN'S COMPENSATION* § 42.21(a) (1992). In the category of where a distinct physical injury results from a mental stimulus the decisions find compensability. *Id.*; see *Hoage v. Royal Indem. Co.*, 90 F.2d 387 (D.C. Cir. 1937) (awarding compensation to an insurance company claims adjuster for disability resulting from a heart attack that was caused by "overwork, and physical and mental strain"); *Schechter v. State Ins. Fund*, 160 N.E.2d 901 (N.Y. 1959) (awarding compensation to an attorney for disability arising from heart attack suffered as a result of his increased trial workload); *Streeb v. City of Boulder*, 706 P.2d 786 (Colo. 1985) (holding that job-related mental or emotional stress may constitute causation for a compensable injury in case where fireman died from cardiac arrhythmia).

15. FLA. STAT. § 440 (1992).

16. *Massie*, 602 So. 2d at 524-25. The court said: "We are not willing to redefine workers' compensation coverage to include situations where psychological causes may have physical effects. The legislature is the appropriate body to take such action." *Id.*

17. *Id.* at 524.

18. *Id.*

In *Victor Wine*,¹⁹ a claimant sought workers' compensation benefits for a heart attack, which he suffered in the course of his employment.²⁰ The *Victor Wine* court held that claimant was not entitled to workers' compensation benefits because a heart attack suffered by an employee while performing his usual job activities, without unusual physical exertion, was not deemed to be a compensable injury by "accident."²¹ The court reasoned that for relief to be granted under the Florida Act, the injury must be caused by a hazard of the industry.²² Further, the court reasoned that to compensate an injury that was not caused by an accident of the industry would be against the purpose of the act and would amount to health insurance.²³ The *Victor Wine* court found that the claimant suffered the heart attack in the course of his routine job activity. Therefore, he was not subjected to unusual strain or overexertion that was uncommon to the work he was accustomed to performing,²⁴ and his claim was dismissed.²⁵

However in a subsequent case, the Florida Supreme Court found a stress-induced claim to merit compensation in *Tracy v. Americana Hotel*.²⁶ In *Tracy*, the claimant was a hotel housekeeper who suffered a ruptured aneurysm in the course of her employment.²⁷ The rupture was alleged to be caused by job-related stress combined with normal job activity.²⁸ In holding that the injury was compensable under workers' compensation benefits,²⁹ the *Tracy* court reasoned that a claimant need only show that she experienced an injury as an unexpected result of her job activities.³⁰ Therefore, since the claimant suffered an unexpected aneurysm in the course of her employment activities, the court held that she was entitled to compensation.³¹

19. *Victor Wine & Liquor, Inc. v. Beasley*, 141 So. 2d 581 (Fla. 1962). The claimant in this case was a laborer who had two non-disabling heart attacks several days before suffering the disabling attack in the course of performing his usual job activities of lifting, carrying and stacking cases of whiskey on a truck. *Id.* at 583.

20. *Id.* at 583.

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.* at 584.

26. 234 So. 2d 641 (Fla. 1970).

27. *Id.* at 642. The claimant suffered a ruptured aneurysm while in the process of "snapping" a bed sheet across a mattress, following a stressful incident involving a co-employee. *Id.*

28. *Id.*

29. *Id.* at 643.

30. *Id.* at 642.

31. *Id.* at 643.

However, the court receded from the *Tracy* holding in *Richard E. Mosca & Co. v. Mosca*.³² The *Mosca* court denied workers' compensation benefits to a claimant for a ruptured aneurysm that allegedly resulted from job-related stress.³³ According to medical testimony in *Mosca*, a decline in the claimant's business exerted sufficient stress to elevate his blood pressure to the point that the aneurysm ruptured.³⁴ In denying compensation to the claimant,³⁵ the *Mosca* court reasoned that a ruptured aneurysm could not qualify as an "accident" arising out of employment, absent evidence of a specific and identifiable effort of overexertion or strain that was uncommon to the work the claimant usually performed.³⁶ In addition, the court said emotional strain had never been held to be a sufficient cause to support a workers' compensation claim.³⁷ Articulating the policy underlying the denial of stress related claims, the court said that emotional strain was too elusive a factor, absent a physical factor,³⁸ to determine a causal connection between a claimant's injury and his employment.³⁹ The Florida Supreme Court held that the claimant did not show that his injury resulted from a specific and unusual strain or overexertion that was not routine to his type of work.⁴⁰ Subsequent Florida cases continued to deny stress based claims of physical injury.⁴¹

32. 362 So. 2d 1340, 1342 n.2 (Fla. 1978). The court indicated that the *Mosca* holding receded from the *Tracy* holding insofar as *Tracy* was inconsistent with the *Mosca* holding. *Id.*

33. *Id.* at 1344.

34. *Id.* at 1341-42.

35. *Id.* at 1344.

36. *Id.* at 1342.

37. *Id.* The court said:

[I]n no case have we held emotional strain alone to be sufficient. Emotional strain is too elusive a factor to be utilized, independent of any physical activity, in determining whether there is a causal connection between a heart attack or other internal failure of the cardiovascular system and the claimant's employment.

Id.

38. See *Mosca*, 362 So. 2d at 1344. The court cited a case in which a heart attack was found to be a compensable injury where there was unusual physical strain in conjunction with emotional strain. *Marhoefer v. Frye*, 199 So. 2d 723, 723-24 (Fla. 1967) (holding that the death of an employee, who was foreman of a major construction project and subject to unusual strain and overexertion when he suffered a fatal heart attack, was a compensable claim). *Id.*

39. *Mosca*, 362 So. 2d at 1342.

40. *Id.* at 1344.

41. *E.g.* *City of Miami v. Rosenberg*, 396 So. 2d 163 (Fla. 1981) (denying compensation to attorney who suffered heart attack alleged to be caused by stress of pressure on him to retire); *Richards Dept. Store v. Donin*, 365 So. 2d 385 (Fla. 1978) (denying compensation to a department store buyer who suffered myocardia infarction alleged to result from pressure of excessive work combined with the threat of losing his job).

In contrast to the Florida position, the Court of Appeals of Oregon has held that stress based claims are compensable,⁴² based on the Oregon workers' compensation statute.⁴³ In *Abbott v. State Accident Insurance*,⁴⁴ a claimant was granted compensation for the exacerbation of her multiple sclerosis,⁴⁵ allegedly caused by the stress of her job as a legal secretary.⁴⁶ The Oregon court first reasoned that the state statute provided compensation for disease or infection arising out of and in the scope of the employment.⁴⁷ Next, the court reasoned that the claimant's work was unusually stressful and that stress exacerbated her multiple sclerosis.⁴⁸ Finally, the court stated that stress can be a causative factor in a workers' compensation case and accordingly held that the claimant was entitled to compensation.⁴⁹

In the instant case, the Florida Supreme Court, in a four to three majority opinion, stated that in denying compensation to the Respondent, it adhered to the principles established in *Mosca* and *Victor Wine*.⁵⁰ The court reasoned that a claimant was not entitled to compen-

42. See *Globe Machine v. Yock*, 717 P.2d 1235 (Or. App. 1986) (awarding worker compensation for disabling injuries caused by alcoholism, which in turn was alleged to be caused by job-stress); *State Accident Ins. Fund Corp. v. Carter*, 698 P.2d 1037 (Or. Ct. App. 1985) (awarding compensation to a state senator for permanent injuries resulting from exacerbation of his multiple sclerosis caused by the stress of grand jury investigation); *Abbott v. State Accident Ins. Fund*, 609 P.2d 396 (Or. Ct. App. 1980) (awarding compensation to a legal secretary whose multiple sclerosis was exacerbated to the point of disability by the stress of her employment).

43. OR. REV. STAT. § 656.005 (1991). Section 656.005(7)(a) states:

(7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appliances, arising out of and in the course of employment requiring medical services or resulting in disability or death; an injury is accidental if the result is an accident, whether or not due to accidental means, if it is established by medical evidence supported by objective findings, subject to the following limitations: (A) No injury or disease is compensable as a consequence of a compensable injury unless the compensable injury is the major contributing cause of the consequential condition. (B) If a compensable injury combines with a preexisting disease or condition to cause or prolong disability or a need for treatment, the resultant condition is compensable only to the extent the compensable injury is and remains the major contributing cause of the disability or need for treatment.

Id.

44. *Abbott*, 609 P.2d 396.

45. *Id.* at 398.

46. *Id.* at 397. The claimant was a legal secretary for an attorney who maintained a caseload of four-hundred to five-hundred open files. She was described by co-workers as a workaholic. *Id.*

47. *Id.*

48. *Id.*

49. *Id.* at 398.

50. *Massie*, 602 So. 2d at 522.

sation unless the circumstances of his case constituted an "accident" as defined by the Florida Statute.⁵¹ Comparing the case to similar cases where the claimants each suffered a heart attack,⁵² the court reasoned that the test for a compensable injury clearly required an occurrence of physical strain or exertion as stated in *Victor Wine*.⁵³ The court further stated that for a pre-existing injury to be compensable, the injury must be exacerbated by some nonroutine, job-related physical strain, or by a form of repetitious physical trauma.⁵⁴ The court said the physical strain might, or might not, be accompanied by psychological stress.⁵⁵ The court noted that under Florida law, psychological stress alone is not a sufficient causation in a workers' compensation claim,⁵⁶ and only legislative action could alter that rule.⁵⁷ Citing the principle that all employees in managerial positions are periodically subjected to stress,⁵⁸ the court held that Respondent's job-related stress was neither uncommon to his job, nor a valid physical occurrence constituting an "accident."⁵⁹

However, in a vigorous dissent, Justice Shaw said that by denying Respondent's claim in the instant case, a "manifest injustice" occurred.⁶⁰ Justice Shaw criticized the majority for transmuting the "physical strain requirement" of *Mosca* into requiring a "physical stimulus" in order to meet the causation requirement for a workers' compensation claim.⁶¹ Further, he agreed with the Oregon court in *Abbott*⁶² that a claim of exacerbated multiple sclerosis is compensable when shown to be "causally connected" to job-related stress.⁶³ Finally, in pointing out the purpose of the Workers' Compensation Act,⁶⁴ Jus-

51. *Id.* at 521 (citing FLA. STAT. § 440.02(1) (1989)); see *supra* note 13 and accompanying text.

52. *Massie*, 602 So. 2d at 521.

53. *Id.*

54. *Id.* at 524.

55. *Id.*

56. *Id.*

57. *Id.* at 525.

58. *Id.* at 524.

59. *Id.*

60. *Id.* at 527 (Shaw, J., dissenting).

61. *Id.* (Shaw, J., dissenting).

62. *Id.* at 527 (Shaw, J., dissenting); see *supra* note 41 and accompanying text.

63. *Massie*, 602 S. 2d at 527, 528 (Shaw, J., dissenting) (quoting *State Accidental Ins. Fund Corp. v. Carter*, 698 P.2d 1037, 1038 (1985)).

64. *Id.* at 528 (Shaw, J., dissenting) (quoting *Mobile Elevator Co. v. White*, 39 So. 2d 799, 800 (Fla. 1949) "[I]f the worker is 'hurt while [engaged in the employer's activity], then the

tice Shaw stressed the importance of the social policy underlying workers' compensation.⁶⁵

Although the instant court stated that it followed the principles established in *Victor Wine* and *Mosca*, it appeared to raise the threshold for sustaining a claim for injury under the Florida Workers' Compensation Statute. In *Victor Wine*, the claimant suffered a heart attack in the course of his routine work.⁶⁶ In contrast, the Respondent in the instant case suffered an exacerbation of his multiple sclerosis as a result of excessive work hours and psychological pressure.⁶⁷ By requiring an identifiable physical stimulus as impetus for a compensable "accident,"⁶⁸ as opposed to allowing compensation for excessive physical strain or uncommon exertion, the instant court appears to heighten the requirement for meeting the compensability test. In requiring a specific physical trauma as causation for a compensable injury, the court gave the statutory definition of "accident" a narrow construction.⁶⁹

Furthermore, in finding that Respondent was not entitled to workers' compensation benefits, the court reasoned that the rationale laid out in *Mosca* was also applicable to the instant case.⁷⁰ Applying the language of *Mosca*, the instant court said that "emotional strain [was] too elusive a factor" and had never been held by the court to be sufficient alone to warrant compensation.⁷¹ The instant court stated that testimony regarding Respondent's mental stress was irrelevant and should have been disregarded under the law.⁷²

Although the injury sustained by the claimant in *Mosca* was dissimilar to that of the Respondent in the instant case, work-related stress precipitated the injuries of each.⁷³ As in *Mosca*, the instant

employer who benefits or profits from that activity must relieve society of the consequences of a broken body, a diminished income, an outlay for medical and other care.")

65. *Id.* (Shaw, J., dissenting).

66. See *Victor Wine*, 141 So. 2d at 581; *supra* note 19.

67. See *Massie*, 602 So. 2d at 518; *supra* note 1.

68. *Massie*, 602 So. 2d at 518, 527 (Shaw, J., dissenting).

69. *Id.* at 524. The court said, "[I]n order for a pre-existing condition to be compensable, it must be exacerbated by some nonroutine, job-related *physical* exertion, or by some form of repeated *physical* trauma." *Id.* at 518 (emphasis added).

70. *Massie*, 602 So. 2d at 522; *Mosca*, 362 So. 2d at 1342.

71. *Massie*, 602 So. 2d at 522.

72. *Id.* at 525. The court reasoned that testimony regarding psychological stress need not have been considered by the Deputy Commissioner in determining whether Respondent's injury was compensable because the court said that stress is not compensable as a matter of law unless it is accompanied by physical exertion or physical trauma. *Id.*

73. See *supra* notes 1 and 32.

court held that absent specifically identifiable, physical strain, uncommon to the routine work of the claimant, psychological trauma is not compensable.⁷⁴ In emphasizing that injuries caused by mental stress are not compensable, the instant court indicated that the only opportunity for compensating a stress-related injury would be through legislative action.⁷⁵

Unlike the *Abbott* court, the *Mosca* court and the instant court did not recognize a compensable "accident" as a result, but rather as an impetus. Under the *Abbott* holding, the unexpected element constituting an accident was the exacerbation of the claimant's multiple sclerosis, as opposed to the stress that caused it.⁷⁶ However, in the instant case, the court determined that to be compensable, causation of the injury must fall within the meaning of "accident" as connoting a specific, identifiable physical stimulus.⁷⁷ Therefore, the instant court did not recognize the extraordinary conditions of Respondent's job as satisfying the "accident" element.⁷⁸

As in *Abbott*, the rationale in the *Tracy* case was based on result as opposed to cause. Although the claimant in *Tracy* suffered from a ruptured aneurysm,⁷⁹ as opposed to multiple sclerosis, the circumstances are analogous in the respect that both claimants suffered a pre-existing condition that was exacerbated by job-related stress. However, the Florida court receded from the *Tracy* holding in *Mosca*⁸⁰ and its progeny⁸¹ by looking to a physical catalyst in an injury for

74. *Massie*, 602 So. 2d at 526-27; see also *supra* note 68 and accompanying text.

75. *Massie*, 602 So. 2d at 526. The court stated, "We believe that *Massie II* is based upon the view that workers compensation should be awarded when a claimant's pre-existing physical defect is exacerbated by job-related stress. Whether or not we agree with that view, we find that it is contrary to the existing workers' compensation statute and it would be improper for the courts to so amend that statute." *Id.*

76. *Abbott*, 609 P.2d at 398.

77. *Massie*, 602 So. 2d 516. The court stated in pertinent part, "We must answer two questions in resolving this case. First, do the circumstances of *Massie's* case constitute an 'accident' for purposes of workers compensation?" *Id.* at 521.

The court further stated that, "no witness ever testified to an incident of nonroutine physical exertion, exposure to some deleterious substance or extreme environmental condition, or repeated physical trauma. As there was no such testimony, the deputy commissioner's factual determination was not improper." *Id.* at 525.

78. *Id.* at 526, 527.

79. *Victor Wine*, 141 So. 2d at 583; see also text accompanying note 24.

80. *Mosca*, 362 So. 2d at 1342.

81. See *supra* note 40 and accompanying text; see also *Tintera v. Armour & Co.*, 362 So. 2d 1344 (Fla. 1978) (denying compensation to employee who suffered myocardial infarction

determination of benefits under workers' compensation. While the Florida court adopted a more liberal view of workers' compensation in *Tracy*, it resumed a conservative position in *Mosca* that still prevails. The instant court appears to adopt an even more conservative posture.

In maintaining a conservative position regarding the scope of workers' compensation coverage, the court narrowly construes the state statute. Several policy considerations appear to drive this conservative position. The first consideration is that the statute as construed does not extend coverage to stress-induced injuries. Therefore, the appropriate body to address for expansion of the coverage is the legislature.⁸² The second policy consideration is the incorporeal characteristic of stress, which makes it difficult to identify or quantify;⁸³ third, is the responsibility of individuals to maintain independent health care coverage;⁸⁴ and last, is the slippery slope theory, which is premised on the idea that most people are subject to stress in their jobs.⁸⁵

As workers' compensation statutes seek to protect the interests of workers injured through their employment,⁸⁶ jurisdictions are divided as to the scope of what constitutes a compensable employment injury.⁸⁷ While a number of states are liberal regarding coverage of stress-induced injuries under workers' compensation statutes,⁸⁸ Florida remains conservative. States allowing compensation for stress-induced injuries are responding to the shift from an industrial labor force,⁸⁹ traditionally plagued by physical accidents and injuries, to the computer-age work force, plagued by stress-related injury and illness.⁹⁰

Although Florida remains conservative in its denial of compensation for stress-related injuries, it is interesting to note that Florida courts have taken an opposite position in respect to retirement benefits for

allegedly caused by stress of potential job lay-off); *Skinner v. First Fla. Bldg. Corp.*, 490 So. 2d 1367 (Fla. 1st D.C.A. 1986) (denying compensation to widow of worker whose death was attributed to a ruptured aneurysm allegedly caused by job-related stress).

82. *Massie*, 602 So. 2d at 526.

83. *See Mosca*, 362 So. 2d at 1342.

84. *See Victor Wine*, 141 So. 2d at 583.

85. *See Massie*, 602 So. 2d at 524.

86. *See supra* note 63 and accompanying text.

87. *Occupational Disease: Insurance Issues*, INSURANCE INFORMATION INSTITUTE REPORTS (Ruth Gastel ed., Mar. 1992). Editor states that only ten states require that a form of physical injury must have occurred before a claim for mental or emotional injury can be filed. *Id.*

88. *See supra* note 43; *see also* COLO. REV. STAT. § 8-41-108 (1991).

89. Nancy Blodgett, *Legal Relief From Tension*, 72 A.B.A. JOUR., Oct. 1, 1986 at 17.

90. *Id.*

employees disabled as a result of job-related stress.⁹¹ This balancing suggests how justice may be served by denying compensation to a disabled worker who would be a healthy wage-earner "but for" the stress of his employment, while a co-worker suffering a corporeal injury is compensated? Although the position of not compensating stress-induced injuries appears callous, there are valid arguments on behalf of the underlying policies.

First, as the court in *Mosca* said, stress is elusive and therefore, difficult to quantify.⁹² It is hard to determine how much stress is too much. It is hard to isolate the stress of employment from the stress of other areas of an employee's lifestyle. Second, and perhaps more significant, is that broadening of coverage could devastate the financial foundation of the system.⁹³ While social policy dictates a sense of responsibility for the victim of a stress-induced injury or disability, consideration of the allocation of resources suggests a pause for examination of potentially conflicting factors. If stress-related claims become universally compensable, the state or employers' financial pools may be depleted.⁹⁴ Either the system could fail,⁹⁵ or the price of consumer goods and services could increase to offset increased workers' compensation premiums.⁹⁶ Therefore, careful analysis is indicated in order to balance competing interests and arrive at a satisfactory conclusion.

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91. See *Division of Retirement v. Allen*, 395 So. 2d 1192 (Fla. 1st DCA 1971) (finding in-line-of-duty disability benefits for correctional officer who suffered a stroke allegedly caused by highly stressful job); *Division of Retirement v. Putnam*, 386 So. 2d 824 (Fla. 1st DCA 1980) (finding in-line-of-duty disability benefits for sixty-one year old school teacher who suffered a stroke allegedly caused by extraordinary stress of job).

92. *Mosca*, 362 So. 2d at 1342.

93. DEVADER & GIAMPETRO-MEYER, *supra* note 9, at 1.

94. *Id.*

95. *Id.*

96. *Without Restraints, Control of System Inefficiencies, Study Shows W.C. Costs Can Double Again in Next Five Years*, INSURANCE ADVOCATE, Dec. 22, 1990, at 5. Indicates reasons for sharp increases in costs of workers' compensation are rising medical costs and expansion of work-related injury to include stress disorders. *Id.*

