

Client Alert

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INVESTIGATING PSYCHIC INJURIES IN GEORGIA WORKERS' COMPENSATION CLAIMS: IT CAN BE DONE!

By Lissa F. Klein

Most workers' compensation claims begin and end with the handling of a claimant's physical injury. However, many also deal with the handling of a claimant's psychic injury. The Georgia Workers' Compensation Act recognizes psychic injuries as compensable under O.C.G.A. §34-9-1. Like a physical injury, a psychic injury must meet certain criteria in order to be deemed compensable. In Georgia, a psychic injury is compensable only if it satisfies a two-prong test: (1) it must arise out of an accident in which a compensable physical injury was sustained; and (2) while the physical injury need not be the precipitating cause of the psychological condition or problems, the physical injury must, at a minimum, contribute to the continuation of the psychological trauma.

Recently, the Courts indicated it could find a diagnosis of mild depression to be a compensable psychic injury. *DeKalb Board of Education v. Singleton*, 294 Ga. App. 96 (2008). This latest development confirms that now, more than ever, psychic injuries have the potential to add significant costs to the handling of a workers' compensation claim. An employer and insurer have the opportunity to investigate the merits of a psychic trauma by authorizing an Independent Medical Examination (IME) with a psychologist, psychiatrist or other physician of their choice who can determine if the claimant has in fact suffered a psychic injury. O.C.G.A. §34-9-202(a). Obtaining the opinion of an IME physician enables the employer and insurer to be involved in selecting a physician to evaluate a psychic injury, instead of having to defer to the opinion of a physician referred to the claimant by the authorized treating physician. There are several objective measures an IME physician can use to evaluate a psychic injury to determine whether a claimant is exaggerating his or her symptoms for financial gain.

The workers' compensation practice group at HBSS takes every measure to thoroughly review a claimant's medical records and discuss with its clients whether there are any indications that the claimant has sustained a psychic injury. We are familiar with reputable psychologists, psychiatrists and neuropsychologists throughout Georgia that can be utilized as IME physicians as well as authorized treating physicians for a psychic injury. While a psychic injury in a workers' compensation claim can be of great concern, your legal counsel at HBSS is fully prepared to assist you in the handling of these types of claims.

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ABOUT HBSS

Hall Booth Smith & Slover is a full-service and diverse law firm with eight regional offices in Georgia, Tennessee and South Carolina. The firm's practice areas are focused and diverse, and include complex civil defense litigation, employment, mass torts, medical malpractice, healthcare, regulatory and governmental matters, and international law.

Whether it's a matter of litigation taking place in the courtroom or negotiations happening in the board room, the attorneys at HBSS will aggressively represent your interests every step of the way.

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