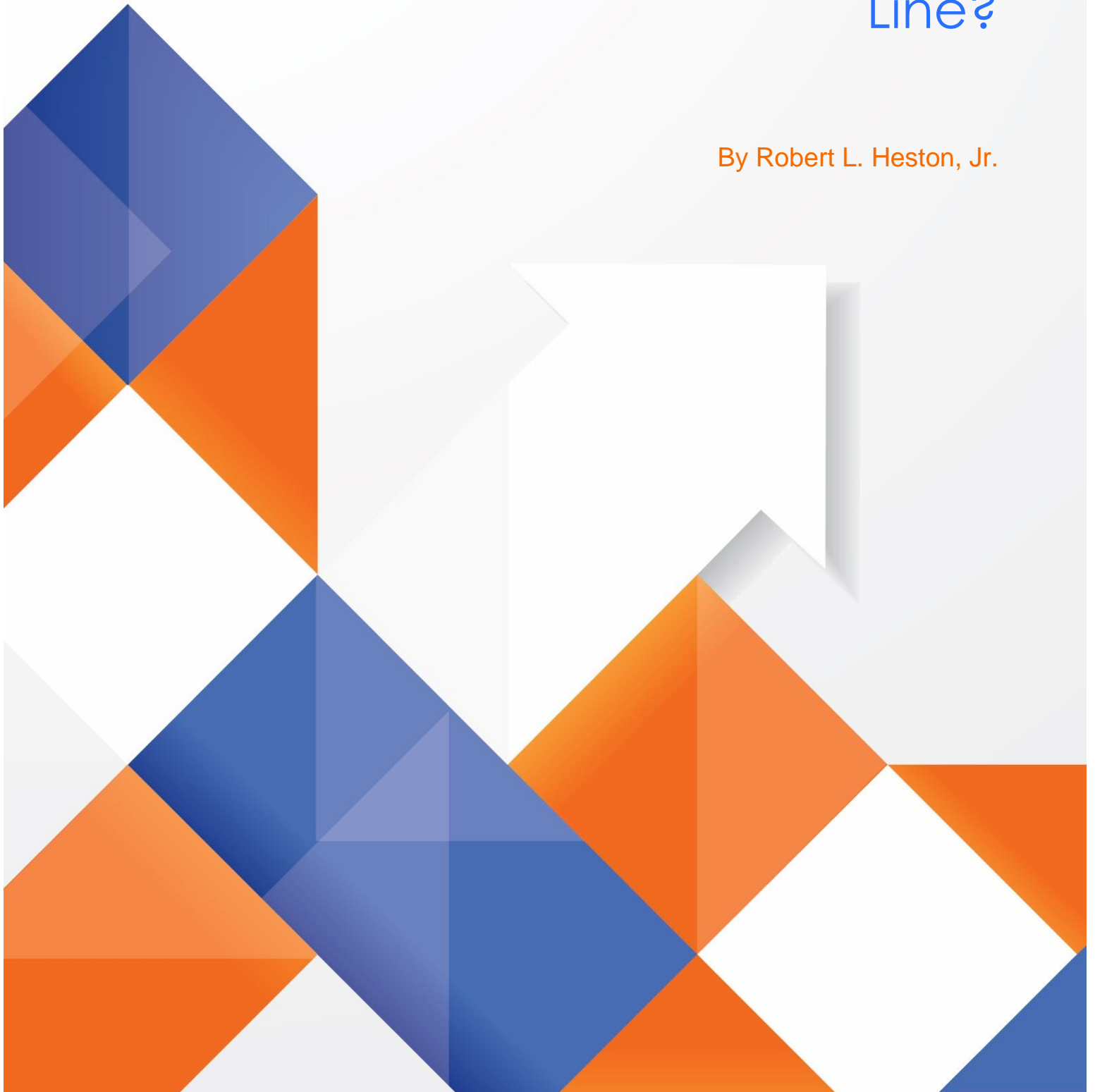


How Much Does Employee Well-being Affect the Company Bottom Line?

By Robert L. Heston, Jr.



Is there a major component of the employee well-being equation that is not being addressed?

Absolutely. Right now, at any company in America, there is a substantial (albeit “invisible”) portion of each company’s employees who are suffering through one or more subparts to this financial illness. Identifying and analyzing this source of financial problems and curing this illness can pay major benefits for the company and its workforce.

We begin with the myriad of issues employees face as they begin each new workplace day. Personal problems brought unintentionally and unavoidably into the workplace but all-encompassing because of their magnitude. Today, employees face so many challenges from disputes, issues, problems at home with their friends and acquaintances and with others they come into contact with – many of which will manifest themselves in the form of legal problems. We all know employees who have suffered, or are suffering, through divorces, parental illnesses, nursing home issues, injuries and medical problems, spousal abuse, arrests, traffic license suspensions, child custody battles, credit card debts, bankruptcy, foreclosure, eviction, identity theft and hundreds of other types of legal problems.

How is it that these problems can be so obvious, we see them every day and the news is full of these problems, disputes and lawsuits, yet we seem to ignore their impact on our lives. It is sometimes difficult to believe that there is not a program available at one’s company to help. Many would argue there is, claiming that many companies provide an employee EAP program, which often has a basic legal component with initial consultations at no charge and reduced hourly rates for legal services that do need to be paid for by employees. But, does the EAP solve many of the debilitating problems employees face?

To determine this, we must look at the problem those legal matters cause. The problem with these serious legal problems is how much it costs an employee to find and hire an attorney and how much stress employees suffer trying to find the right attorneys and the money to hire attorneys. Court and the American legal system is so daunting to employees, and court cases are so expensive and take so long to resolve.

In some ways, mediation has helped a bit. Mediation can be faster and much less costly than a full lawsuit. But what happens when the other party will not agree to mediation? And how about those employees suffering from one-sided relationships, where the other party in the lawsuit has much more time and money than they do?

1. What can this component be called?

What is this large area of financial problems, lawsuits and stressful disputes called? This area of financial illness is the human and financial cost of legal problems – all kinds of problems that arise from clashes, battles and scrapes with the American legal system. Most are not related to the company or their employment, but these problems are often devastatingly related to their personal affairs. Legal problems are often the invisible problem in the workforce – the invisible “elephant in the room”.

2. Can this invisible problem be measured and, if so, using what metrics?

Until now, there was no comprehensive study of the effect of legal problems on employees in the workforce. Legal problems that are personal to the employee and brought by the employee, usually unintentionally, into the workplace by the sheer magnitude of the problem. Because of the personal nature of employee legal issues, perhaps this problem has not risen to the appropriate level of concern or program-needed status in American companies. In some respects, they remain left out of employer dialogue and financial wellness dialogue.

Why? We may not know for sure. Certainly, the private and confidential nature of legal problems and their potentially embarrassing nature may be one of the biggest reasons. Few employees are excited to report to their employers an arrest for a DUI/DWI or domestic violence, child abuse, filing for bankruptcy, foreclosure or that they are receiving collection calls about massive debts. The confidential and private nature of these problems, and the potentially devastating effect on employment easily explains this invisibility.

Let’s examine the breadth of this problem in our companies today to see if there are answers that can help employees.

An analysis can start with the impact of stress on employees – stress caused by these problems. For that, we can turn to the recent LegalEASE study on the Financial Impact of Stress and Legal Problems.¹ This study produces some startling analysis results. Wellness is impacted on several fronts: One, there is an enormous but measurable stress produced by these legal problems, and two, there is an equally enormous and debilitating financial wellness component. Taken together, this means a substantial financial illness.



The study examined seven of the most common legal problems that employees face today. All of these are personal and include: divorce, civil litigation, probating an elder parent’s estate, juvenile/criminal matters, warranty/small claims matters, DUI/DWI and traffic tickets. The study looked at the cost of these and learned that they produced an enormous amount of employee stress and upset. However, measuring this stress can be tricky as there are no exact measurements for the effects of problems like presenteeism.

The study determined that it would focus only on the effects of problems that can be

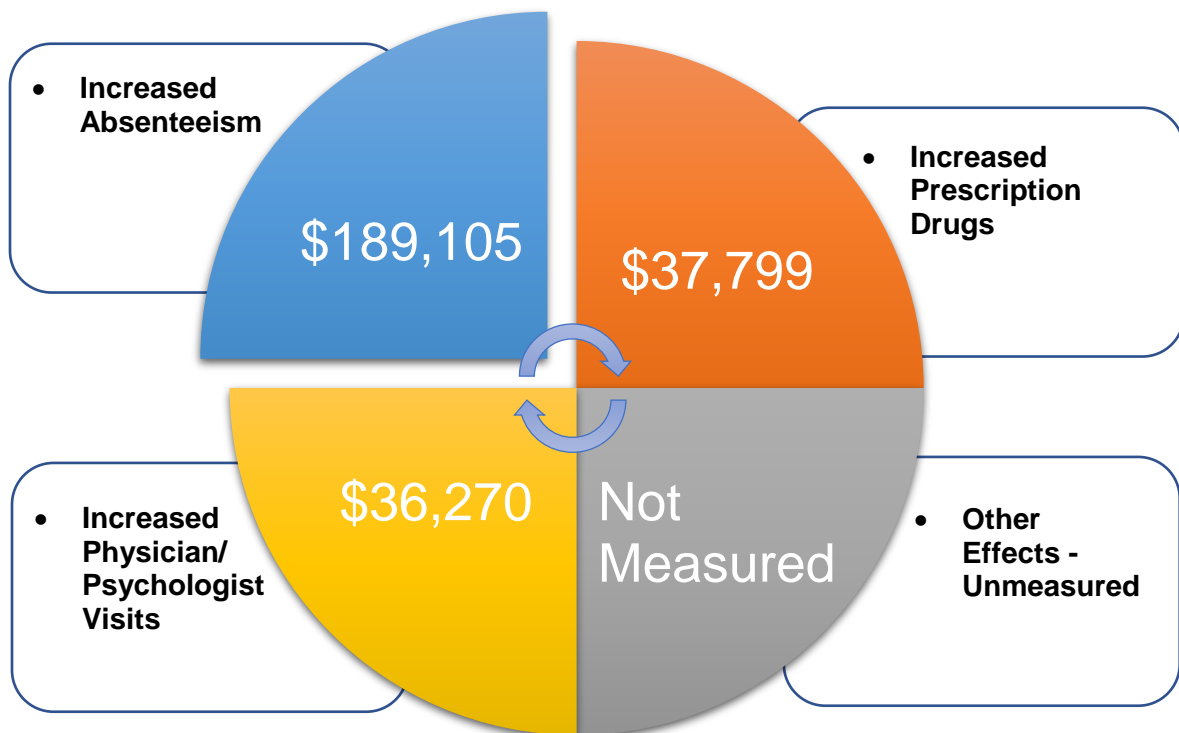
accurately measured. The study also determined that it would utilize three effective measures of stress, absenteeism, increase in prescription drugs and an increase in physician/psychologist visits (including psychiatrists visits).²

Because employees used prescription drugs (like Xanax) in increased amounts during stressful times, and because they visited physicians or psychologists to obtain prescriptions and to treat the stress, these two measures are reliable indicators of the cost of stress.

In addition, without help and without money to handle the lawsuit, stress increased amongst employees. Each day without help or money increased the stress in many cases. Adding to the problem was the fact that to find resources to help with the lawsuit (e.g., attorneys) or to find money to handle the legal fees, employees had to take off of work thereby increasing absenteeism costs. They also had to take time off of work to visit their physician or psychologist for the treatment, thus the absenteeism.

Each of these were also selected because they are measurable, unlike presenteeism or other stress indicators, and taken together so they could produce an accurate picture of how much employee stress was being caused by the legal problem and how much it cost.

The Costs of the Problems Employees are Suffering:



*numbers based on 100 employees per year

Substantial Increases in Each Category...

The costs of financial illness can be massive to both the company and the employee:

- Absenteeism
- Prescription Drug Use
- Physician/Psychologist Visits
- Presenteeism

Armed with these three metrics, the study analyzed the impact of the seven types of legal problems and asked just how much stress is caused for employees.

3. How big is this problem and how much is it costing employers? Employees?

The twenty-year study concluded this problem was indeed measurable. While companies understood some employees suffered legal problems, the magnitude of suffering and the number of employees affected was shocking for many companies. The widespread nature of the costs to both employers and employees produced substantial concern among companies that began to examine this problem.

Employer Costs:

The study concluded that for the seven common types of legal problems employees frequently drag into the workplace the costs are staggering. Using only the three metrics – increased prescription drug costs, increased physician/psychologist visit costs and absenteeism costs – these seven legal problems cost an American company on average in excess of \$263,000 per 100 employees per year!³

Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal Matters	ALL 7 Common Legal Matters
Employer Cost due to Missed Time: "Court-Filed" Divorce Legal Proceedings	\$22,974
Employer Cost due to Missed Time: "Non-Court-Filed" Legal Proceedings	\$47,514
Employer Cost due to Missed Time: Initial Attorney Search	\$85,127
Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor	\$33,491
Summary Employer Cost due to Employee Missed Time: All Factors	\$189,105
Cost of Employee Visits to Doctor &/or Mental Health Counselor	\$36,270
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$37,799
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$74,069
Total - All 7 Common Legal Matters	\$245,174

If we drill down further, we can see the staggering costs of some of the legal matters that make up the seven categories of common legal problems.⁴

Divorce⁵:

Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal Matters	DIVORCE
Employer Cost due to Missed Time: "Court-Filed" Divorce Legal Proceedings	\$6,263
Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings	\$12,466
Employer Cost due to Missed Time: Initial Attorney Search	\$24,714
Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor	\$9,723
Summary Employer Cost due to Employee Missed Time: All Factors	\$53,166
Cost of Employee Visits to Doctor &/or Mental Health Counselor	\$10,530
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$10,974
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$21,504
Total	\$74,670

An Elder Parent's Death⁶:

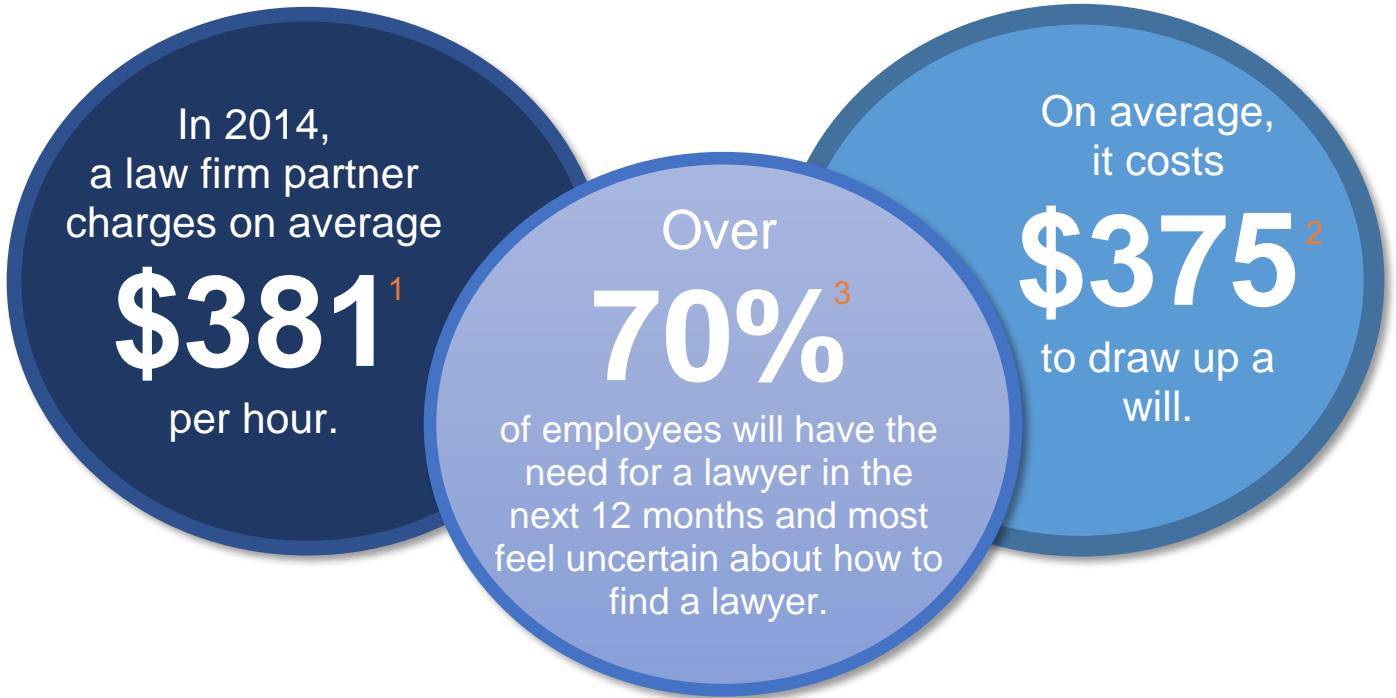
Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal Matters	PROBATE AN ELDER'S ESTATE
Employer Cost due to Missed Time: "Court-Filed" Divorce Legal Proceedings	\$5,600
Employer Cost due to Missed Time: "Non-Court-Filed" Legal Proceedings	\$20,595
Employer Cost due to Missed Time: Initial Attorney Search	\$18,307
Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor	\$7,202
Summary Employer Cost due to Employee Missed Time: All Factors	\$51,705
Cost of Employee Visits to Doctor &/or Mental Health Counselor	\$7,800
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$8,129
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$15,929
Total	\$67,634

A Common Civil Litigation Lawsuit⁷:

Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal Matters	CIVIL LITIGATION DISPUTE
Employer Cost due to Missed Time: "Court-Filed" Divorce Legal Proceedings	\$3,493
Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings	\$6,504
Employer Cost due to Missed Time: Initial Attorney Search	\$10,069
Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor	\$3,961
Summary Employer Cost due to Employee Missed Time: All Factors	\$24,027
Cost of Employee Visits to Doctor &/or Mental Health Counselor	\$4,290
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$4,471
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$8,761
Total	\$32,787

Employee Costs:

We can also calculate the employee cost of the legal matters by looking at several statistical figures:



1 Source: LexisNexis, 2014

2 Source: Legalzoom.com 2014

3 Source: American Bar Association

Thus, when confronted by one of these legal problems, the employee's immediate concern is the lack of resources, financial resources, to pay the legal fees. Money at the outset, as well as throughout the case, becomes a substantial problem. The larger the dispute, the costlier the legal bills are in most cases. And the American legal system seems to have endless delays, interruptions and wasted time – all paid by the participants. Indeed, how many employees have a large unused, uncommitted amount of money stashed away in the event a legal problem arises? The answer is that most do not.⁸ Today, the problem is compounded by the fact that employees are not saving enough money, which is the entire impetus of the financial wellness movement.

Lawsuit costs average \$18,000 per disputed legal matter in the United States, with many more lawsuits reaching the \$25,000 - \$50,000+ mark.⁹ In today's world, an average hourly rate for legal services is found to be \$278/hr.¹⁰ If we look at the number of legal problems per 100 employees in the study, we can calculate the cost of the lawsuits to employees by using the average total lawsuit figure (\$18,000) per lawsuit.

The study found there are 19 actual litigation matters per 100 employees that are protracted and require substantial expenditures for attorney fees, assuming each employee will follow advice and retain an attorney in each case.

Number of Lawsuits (per 100 employees)	Average Cost per Lawsuit	Total Cost of Lawsuits for Employees (per 100 employees)
19	\$18,000	\$342,000 / year

Thus, the hard attorney's fees costs can be estimated at \$18,000 per lawsuit on average multiplied by 19 or some \$ 342,000 for the 19 employees who will have one of our seven common protracted litigation problems in the course of the year.

The result is that legal costs for both the employer and employee are not only measurable but show enormous measurements in cost. This is the invisible elephant of financial wellness in the room.

Is there a fix, cure, solution or program that can resolve this problem?

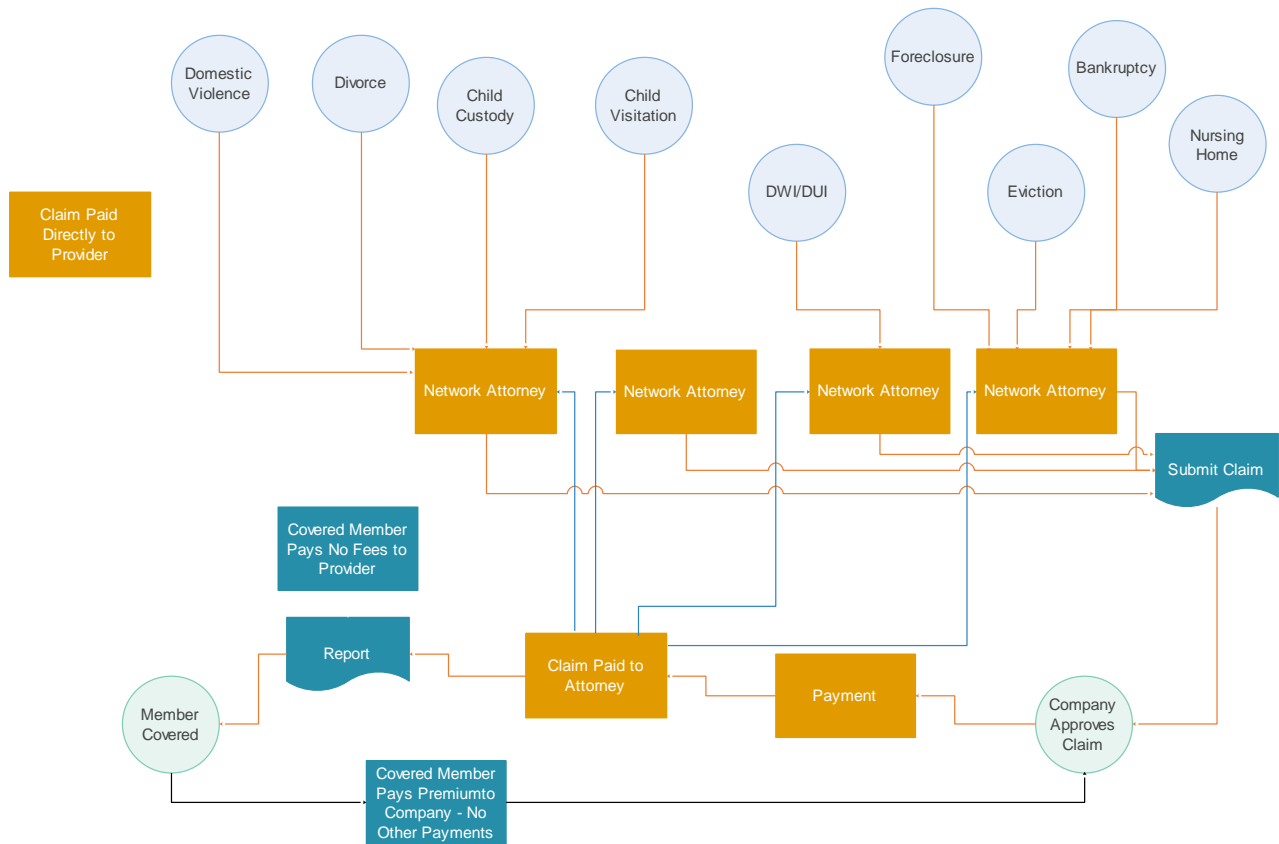
Yes. And the solution is not as complicated as many HR Managers might suspect. Indeed, in many cases it is a solution that is right in front of them. Ironically, many HR Managers may already have the solution in place at their companies but may not realize the impact or the curative effects of the financial illness being suffered by their employees. Bringing the solution to the forefront may be all that is needed to implement the solution and eliminate all or some of this financial illness.

What is the solution? A legal insurance plan. The emphasis is on insurance. And that is why the EAP legal plan may not be near enough in most cases. Providing attorney referrals, free initial consultations and a discounted hourly rate when hiring an attorney may be very helpful but cannot help the problem of finding a source of money to pay legal fees. The financial illness is caused more by the lack of money to hire the right attorney than from the source of the legal problem itself. Finding money, as we have seen, creates a maximum amount of stress and the pressure of deadlines exacerbates this stress. "Very few employees have a legal fund stashed away to fund a lawsuit start to finish."¹¹

Savings for Employees.

And therein lies the solution. Certain legal insurance plans not only provide attorney referrals, networks of qualified attorneys and free initial consultations but the insurance component pays the legal fees, in full or in part, depending upon the legal plan, for the employee in the event a legal problem arises. When one has access to these insurance plans, the plan pays the legal fee for the employee and provides the attorney. Many plans do not require the employee to pay the attorney and seek reimbursement. They actually pay the attorney so the employee never has to find the thousands of dollars to fund the lawsuit other than a few hundred dollars of court and filing fee costs.

The Results



How much can employees save in legal fees?

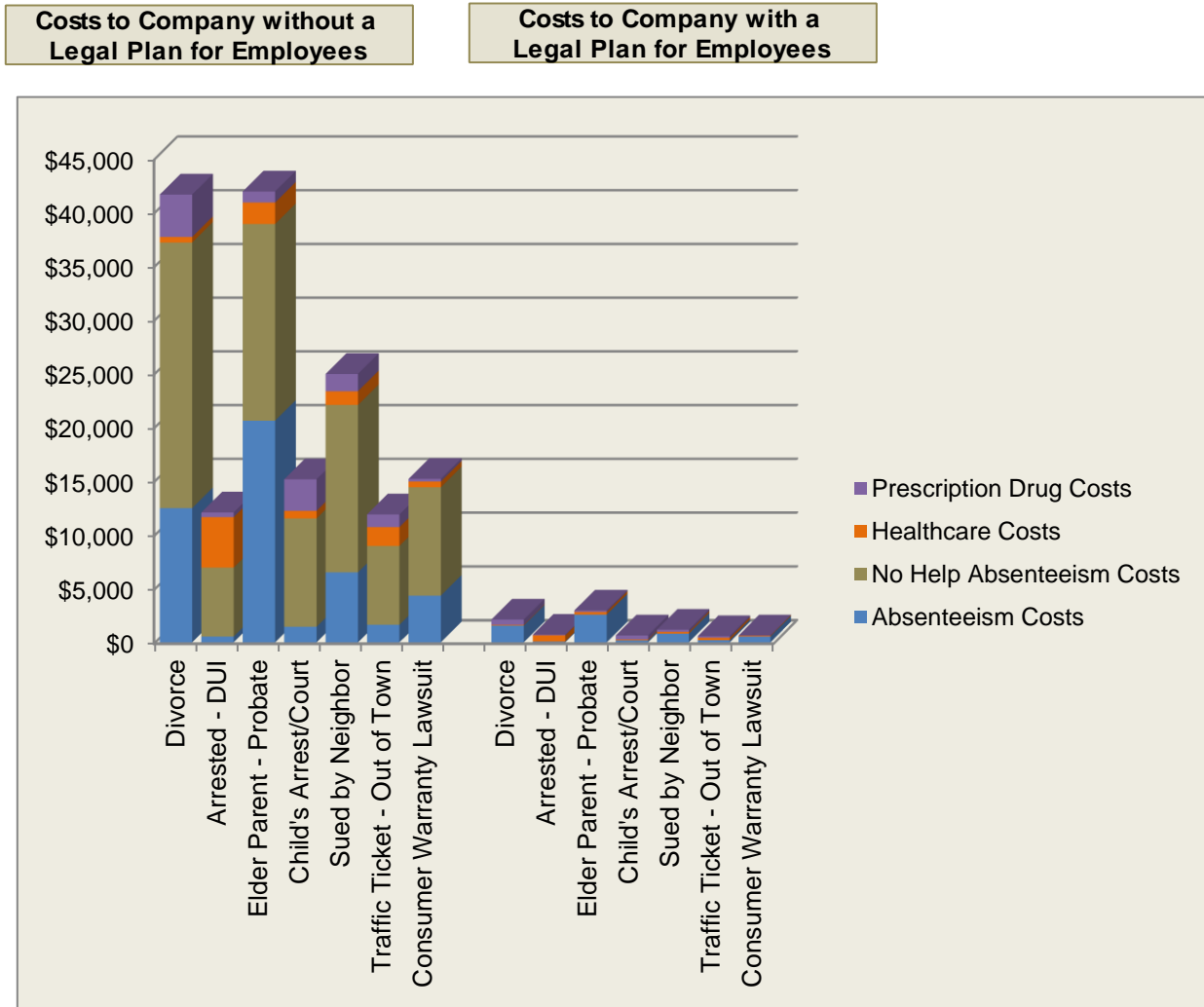
Because certain insured legal plans pay all or part of the legal fees on the most common legal matters, shockingly, employee costs may be reduced to \$0 of legal fees. Of course, if they lose the lawsuit they may have to pay amounts ordered by the court, but that is a different type of insurance.

Savings for Employers.

By paying all the fees, legal insurance plans can undoubtedly save employees the entire cost of many, if not all, of their personal legal fees. And because these plans save employees from the massive unexpected need to find thousands of dollars they do not have, these legal plans save employers hundreds of thousands of dollars in stress-related costs, according to the study, some \$245,000.

How much is saved? The savings to employers is massive. This study carefully analyzed every part of the legal problem that is handled by the insurance legal plan; finding an attorney quicker means less stress builds and having coverage in the form of insurance to pay the attorney means that stress from finding money is substantially lessened. We can see from Figure 9, the difference in costs to the employer when a legal insurance plan is and is not in place. Indeed, lessening stress lessens all the costs of our metrics.

Figure 9



And because some plans are better and have more features than others, employers with one of these superior legal plans can save more¹²:

Total Costs with a Superior Legal Plan per 100 Employees per Year *15	With Any Legal Plan										With Superior Legal Plan - Employer Cost due to Missed Time: Initial Attorney Search is no longer a factor!				
	Total Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings *1	Total Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings *2	Total Employer Cost due to Missed Time: Initial Attorney Search *3	Total Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor *4	Cost of Employee Visits to Doctor/Mental Health Counselor *5	Cost of Employees Using Prescription Drugs for Stress Related Issues *6	Total Employer Cost *7	Total Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings *8	Total Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings *9	Total Employer Cost due to Missed Time: Initial Attorney Search *10	Total Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor *11	Total Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor *12	Cost of Employees Using Prescription Drugs for Stress Related Issues *13	Total Employer Cost *14	
\$128,602	\$6,264	\$12,466	\$24,714	\$9,723	\$10,530	\$74,670	\$6,264	\$12,466	\$0	\$7,853	\$5,265	\$5,487	\$37,334		
Legal Matter	\$2,529	\$1,445	\$6,407	\$2,521	\$2,730	\$18,478	\$2,529	\$1,445	\$0	\$2,036	\$1,365	\$1,423	\$8,798		
Divorce	\$5,600	\$20,595	\$18,307	\$7,202	\$7,800	\$67,633	\$5,600	\$20,595	\$0	\$5,817	\$3,900	\$4,064	\$39,977		
Criminal Matter	\$3,493	\$6,504	\$10,069	\$3,961	\$4,290	\$32,787	\$3,493	\$6,504	\$0	\$3,199	\$2,145	\$2,235	\$17,577		
Probate an Elder Parent's Estate	\$3,011	\$4,336	\$15,561	\$6,122	\$6,630	\$42,569	\$3,011	\$4,336	\$0	\$4,945	\$3,315	\$3,455	\$19,061		
Civil Litigation (Neighbor) Dispute	\$1,325	\$1,626	\$7,323	\$2,881	\$3,120	\$19,526	\$1,325	\$1,626	\$0	\$2,327	\$1,560	\$1,626	\$8,464		
Consumer Warranty Problem - Small Claims	\$753	\$542	\$2,746	\$1,080	\$1,170	\$7,510	\$753	\$542	\$0	\$873	\$585	\$610	\$3,362		
Traffic Ticket/License Suspension	\$22,975	\$47,514	\$85,127	\$33,490	\$36,270	\$263,174	\$22,974	\$47,514	\$0	\$27,050	\$18,135	\$18,899	\$134,572		
DWI/DUI															

Is a legal plan or new program worth the cost to fix your employee problem?

Interestingly, most insured legal plans are voluntary, and their monthly fees are paid by employees who elect to have the coverage.

Because these problems can be the invisible elephant in the room, and because the solution is so all encompassing and so curative in many cases, should HR managers look at these plans with more heightened emphasis? At so many companies, less than 10% of the employees opted for legal insurance coverage, despite the low monthly premium – under \$20 including family coverage. Perhaps calling attention to this problem or considering an employer-paid option or portion of the premium might help employees value this benefit. It will certainly help the company bottom line.

Either way, this area of financial wellness may be one of the most solvable financial components for HR. By analyzing and adding a fully insured legal plan, HR managers can achieve measurable and massive savings for their companies and help their employees handle legal problems without a huge financial burden. While this may not eliminate all the stress of a legal problem, it can expose and virtually eliminate the invisible elephant in the room.

“There is one avenue today where HR managers can provide almost a complete solution – without costing the company anything – almost sounds too good to be true – But it is exactly a reality in today’s hands-on HR help world.”¹³ Legal insurance plans cost the employer virtually nothing but deliver over \$120,000 per year in savings in missed work, prescription drug costs and physician/psychologist visits.



Footnotes:

1/ The Business Case for a Healthy Workplace, © IAPA (Industrial Accident Prevention Association) 2008, p. 2.

2/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2016, Robert L. Heston, Jr.

3/ Id.

4/ Id.

5/ Id.

6/ Id.

7/ Id.

8/ Id.

9/ Id.

10/ "Public Perceptions of Lawyers Consumer Research Findings," American Bar Association Study, 2002, p. 5.

11/ "3 Little-Known Truths About Legal Fees and Billable Hours, Correcting Misconceptions About Lawyers Who Bill Their Time," William Tapscott, Yahoo! Contributor Network, June 27, 2010.

12/ Id.

13/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2016, Robert L. Heston, Jr.

