

LegalEASE Employee Health; Legal & Financial Stress Impact Study 2021, Part I

By Robert L. Heston, Jr.



Your Employee Health Program and its Relationship to Employee Stress

Understanding a Critical Facet of Your Employees' Wellness

LegalEASE Employee Legal Health Study: How to Analyze and Implement Behavior Changing Financial and Legal Programs for Employees as Part of Your Company's Wellness Program

With bad news comes good news.

The bad news: Hidden thieves are stealing your employees' vitality and productivity... and needlessly robbing your company.

The good news: Human Resources and Benefits Managers can have a major impact on your company's bottom line by wiping out those burglars and solving the problems they create.

Part One

The Objective of Today's Wellness Programs: To Identify Employee Stress Components and Enhance ROI for Employers

Common Producers of Stress: Some Obvious, Some Not

- It's imperative to ask the questions that bring concealed issues into light:
- Do we know all factors that cause stress for our employees?
- Are we searching in the right places for the actual causes of employee stress?
- Does our Wellness Program offer solutions for *all of* the major causes of employee stress? Are there stress areas that are not addressed in our wellness programs?
- Can programs that reduce workplace stress also increase work productivity and reduce skyrocketing healthcare and prescription drug costs?

Over the past two decades, many studies have looked at the effects of stressful working conditions on employees, oftentimes reaching the same general conclusions, as stated in a Healthy Workplace IAPA study:

"...when looking at employee health and well-being, it must be recognized that a worker's general health is substantially affected by two major factors: (1) what workers bring with them to the workplace, in terms of heredity, personal resources, health practices, beliefs, attitudes and values; and (2) what the workplace does to the employees once they are there."¹

In recent years, the focus of most employee stress studies has been on causes created *in* the workplace, followed by programs and initiatives to diminish or eliminate stress effects created *by* the workplace.

Employee Assistance Programs, WorkLife and other programs have been shown conclusively to help reduce the stress created in and by the workplace.



INNOVATION CHECK

- ✓ **Wellness programs must look deeper to the causes of stress that employees bring to the workplace.**

With the recent advent of wellness programs, HR has focused increasingly on external stress issues that employees bring to the workplace. Notably, research shows that the causes of stress brought into the workplace

might create greater problems than the stress actually caused in the workplace, and if there are excesses of both kinds of stress, the impact on employees can be debilitating.

Considerations

- Is there a part of this external employee stress that might be better understood, leading to a reduction of pressure on an employee?
- Will a better understanding of the causes of the stress brought into the workplace help our company offer or create programs that can reduce or eliminate the external causes?

Action Item: Identify behavior-related stresses that employees bring to the workplace.

One stress study concluded that health conditions such as obesity, alcoholism, drug-use, and related issues may bring stress into the workplace.² Included among these issues are employee-related practices, behaviors, conditions and situations occurring outside the workplace.

work environment intensifies the pressure. Ultimately, both the company and the employee are the losers.

An unhealthy workplace can bring these hidden thieves to the surface, creating a vicious cycle: The employee brings in personal external stresses, and stress in the

Clearly there are health issues affecting an employee's productivity that may be caused by behaviors related to the stresses in their everyday lives. Depression, anger and even workplace violence can be traced to factors unrelated to the workplace. If these external factors frequent the workplace, costs to the company can mount.

Considerations

- Is your company overlooking these external stress factors when it spends money to implement employee programs designed to reduce obesity, drug abuse, smoking, alcohol abuse or workplace violence?
- What if these are the effects of stress brought into the workplace instead of the causes in many instances?
- Are there specific causes of stresses not being addressed by your company's current programs?

"Of course, stress is a factor in every one's life, particularly during major events such as marriage, divorce or buying a home."

Rebecca Maxon, Author ³

Action Item: Identify financial and legal stresses that employees bring to the workplace.

While obvious, most HR departments do not spend much time analyzing the effects on the

workplace impact of their employees' legal or financial issues.

As this study will reveal, a healthy workplace is contingent on a deeper understanding of employees' legal and financial issues. These stresses must be analyzed before a

company adds costly programs and initiatives that may not get to the root cause of problems, and these stresses may be a larger problem than your company thinks.

Considerations

- Are there different solutions that can eliminate or diminish a significant portion of the stress that employees bring into the workplace?
- Is it possible that certain aspects of employee stress can be reduced easily? If so, what is the cost to your company?
- Will implemented programs truly combat stress and result in a healthier workplace?
- Does a solution exist that may not have been known by your HR department?
- Is it possible there may be no cost to implement a major reduction in employee stress?

Action Items: Identify and Analyze Options to Reduce Employee Stress and Save Your Company Money

1. HR must understand the huge impact of certain previously misunderstood hidden stressors.
2. HR must recognize that certain aspects of employee stress have a definitive solution.
3. HR must know how to choose the right solution.
4. HR must determine if the solution is right in front of its eyes and may not be costly to implement.

I. A Broad Look at the New Breed of Wellness Programs: Do These Programs Address all Types of Employee Stress?

Wellness programs are very popular, and many companies are adding them as fast as possible. Many believe that Wellness programs are the next best hope for promoting a healthy workforce while containing health care expenses, says new research, but the majority of large and midsize companies do not measure the return on investment of their wellness programs.

According to an online survey of 507 HR/benefits decision-makers conducted by ADP, 79% of large and 44% of midsize companies offer wellness programs, but only one-fourth of midsize companies and 22%

of large companies measure the return on investment of their wellness programs.⁴

The survey also found that some employers make wellness program participation mandatory, although most offer voluntary or incentive-based wellness programs. The most common reasons employers offer wellness programs is to improve employee health — 81% midsize, 78% large — followed closely by controlling health care costs. Additionally, one-third or more say they are interested in attracting and retaining employees, and maintaining or increasing benefits offerings.⁵

Question Are wellness programs hitting all areas needed by employees provide a significant return on investment?

Answer Employers betting on wellness programs are making the right call, realizing a \$1 to \$3 decrease in overall healthcare costs for every dollar spent, according to a report from the International Foundation of Employee Benefit Plans.

“Without question, employers are beginning to understand the direct connection that wellness initiatives can have on both employee health and health care plan cost savings,” says Michael Wilson, Foundation

CEO. “While the primary goal is reducing health costs, we’re also seeing other advantages from wellness initiatives, such as higher employee morale, increased productivity and reduced disability.”⁶

Question Are wellness programs providing help for all the areas needed?

Answer This study will address that critical question. Most wellness programs are built around 4 or 5 components, while some models are built around as many as 7 components.

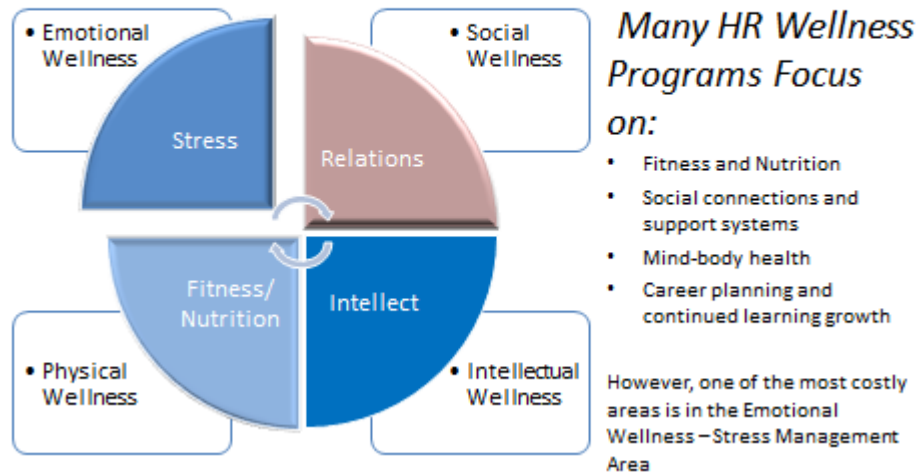
As the diagram below illustrates, most HR Wellness Programs focus on four core issues, which comprise the most widely used wellness area components and contain the

most developed metrics to measure the success and outcome of the wellness program.

Action Item: HR must analyze each area to determine if the needed programs are in place.

Figure 1

HR Wellness Programs



INNOVATION CHECKS

- ✓ Perhaps the most undeveloped area in wellness programs revolves around the emotional wellness component and how that impacts an employee's life.

This emotional wellness component reveals some startling facts:

- 22% of employees suffer from presenteeism, up three points from 2011, according to the latest StressPulse survey by ComPsych Corp, a provider of employee-assistance programs, behavioral health, wellness, work-life and human resources administration services. 7
- Another 36% of respondents report losing at least one hour each workday because of stress, while 41% of lose 15 to 30 minutes and 23% say they do not lose any time.
- 63% of respondents say face high levels of stress accompanied with extreme fatigue.
- 32 % are under constant yet manageable stress.
- Only 5% report having low stress levels.

The survey also finds that work overload is the top causer of stress at 39%, followed by people issues at 34%, striking a work/life balance at 18% and lack of job security at 9%. Meanwhile, 46% miss work for stress and personal issues, 43% for medical

reasons and illnesses and 11% because of caregiving responsibilities. To manage stress levels, 53% take frequent stress breaks to talk with co-workers, 36% work harder and 11% take a day off.

Action Item: HR must understand what factors actually contribute to the emotional wellness component to ensure that nothing is overlooked when a wellness program is implemented.

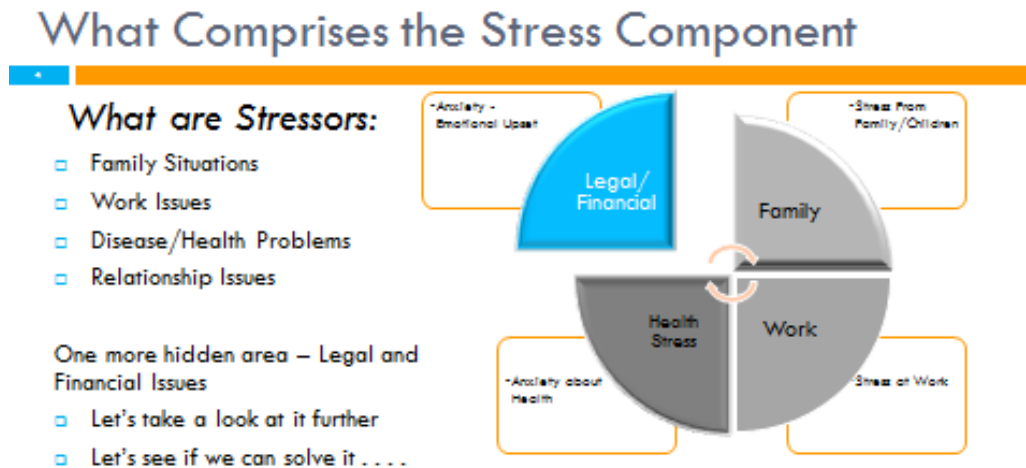
INNOVATION CHECK

- ✓ There are a significant number of wellness issues related to the stress aspect of the emotional wellness component.

About This Study

This study looks specifically at the effect of legal and financial stress on employees and whether it is being addressed in today's Wellness Programs. This study also looks at what other programs, if not wellness programs, are available to treat or possibly eliminate this legal and financial stress element.

Figure 2



Action Item: HR must better understand how certain parts of the emotional wellness component affect employees' lives.

*"The best ROI measure on wellness programs comes by looking at four measurement factors: employee morale and satisfaction, employee retention, absences and productivity. Most organizations are already measuring these factors, but they may not be incorporating wellness as a control when doing so."*⁹

Bob Nersesian
ADP Spokesperson

*"Wellness programs are employers' next best hope for containing health care expenses. These programs can also increase productivity without the negative impact on employee morale of layoffs or cutting plan options — yet few companies are measuring their return on investment from wellness initiatives."*¹⁰

Tim Clifford
President of Benefits Services for National Accounts
ADP

But the author says it's still not an easy process, as return on investment can be "difficult to measure since health

improvement may be influenced by a combination of factors and because it can take anywhere from three to five years to see

cost-saving results.” Roughly 650 people from the United States and Canada were surveyed in February.

The purpose of this Study is to encourage HR to determine whether its current or prospective Wellness Program actually

addresses the problems comprising the emotional wellness component, and in particular whether HR should undertake to find and examine the metrics that measure the stress effects of employee legal and financial problems.

INNOVATION CHECKS

- ✓ If employers want their Wellness Programs to reduce stress and healthcare costs by preventing or lessening employee practices and behaviors that endanger their emotional health, these programs must address the underlying causes of employee stress.
- ✓ Strategies and plans that miss the hidden stressors waste resources.
- ✓ Certain previously overlooked stresses that fuel certain employee issues before they ignite problems in the workplace must be factored into the stress equation requiring solutions to cut productivity costs.

About This Study

This study examines the employee stress component and whether some of the largest causes of employee stress affecting the workplace are overlooked in many wellness programs. Specifically, this Study focuses on the concept of employee stress caused by employees’ personal legal and financial problems, determines the underlying causes of employee stress from legal and financial issues, analyzes treatment costs and determines if a wellness or other employee program contains needed components to treat and measure employee stress reduction caused by these employee legal and financial problems.

INNOVATION CHECK

- ✓ More employees than ever before are feeling stressed by financial and legal problems.

One set of hidden external circumstances or circumstances beyond the control of an employee is one’s financial situation,

including cash-flow, credit, debt, identity theft and unexpected legal problems.

“[I]t’s increasingly apparent that the constant onslaught of economic gloom and doom is not only impacting people’s wallets – it’s also affecting their psyches...As time goes on, people’s problems just fester. They get worse.”¹¹

Jill Wiedemann-West

Senior Vice President Chief Operating Officer of Clinical and Recovery Services
Hazelden

Question How big an effect on employee stress is this financial/legal problem area?

Answer With today's credit crunch, millions of Americans are literally one lawsuit away from being wiped out of their current financial position a study concluded a few years ago.

"There's a silent epidemic that afflicts 30 million workers in the U.S. — a quarter of the American workforce — and is costing business \$15,000 per year per affected employee...When first reported in 1979, 10%

*of working adults reported that they routinely experience personal financial difficulties; today that number is up to 25%. Financial stress is frequently listed as the top source of all the stress experienced by employees."*¹²

The recent recession has only added to this stress level.

Why Employee Financial Wellness Matters to Employers

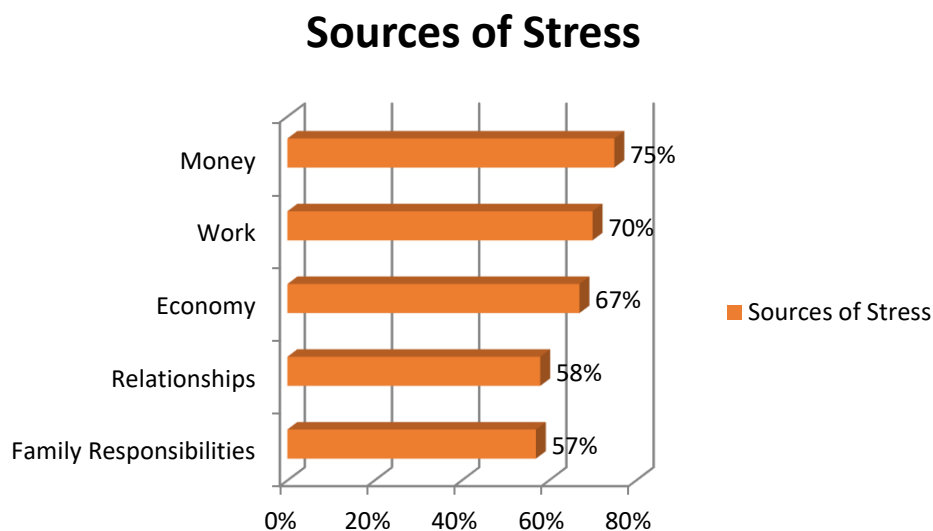
Legal problems are a direct drain on financial wellness, and this is becoming an increasingly critical component in the employee wellness wheel.

While no scientific studies yet exist, this silent stress producer is creating massive amounts of costly employee stressors. LegalEASE has conducted an extensive analysis of existing stress research in its LegalEASE Employee Legal Health Study and has extrapolated the key manifestations of

employee stress caused directly by legal problems, particularly unexpected legal problems, and is able to report significant measurable costs for the employer that are attributed to these employee problems.

According to the American Psychological Association, financial issues are the No. 1 cause of stress and play a large role in the most preventable stress-related illnesses, as detailed in Figure 3 on the next page.

Figure 3



American Psychological Association, Stress in America: Our Health at Risk, January 2012

There are many ways that legal and financial wellness impacts a company's bottom line.

Starting with the onset of the recession in 2007, hundreds of thousands of employees across the United States receive or dodge calls from creditors seeking to collect on past due debt. Daily, thousands of Americans are dragged into court to defend themselves from lawsuits by filed by creditors. Americans file lawsuits against other individuals and businesses every day. The current recession has highlighted the threat of financial debt issues and lawsuits, which has never been greater for an increasing number of American employees.

Additionally, burgeoning home foreclosures contribute to the stress weighing heavily on more and more employees. The number of U.S. homes receiving a foreclosure filing was expected to climb about 20% in 2011, reaching a peak for the housing crisis, as unemployment remained high and banks resume seizures after a slowdown, according to RealtyTrac Inc.¹³ It was reported in July 2013 that 41% of all homes in America were underwater, meaning the mortgage was higher than the appraised value.

"We will peak in foreclosures and probably bottom out in pricing, and that's what we need to do in order to begin the recovery. But it's probably not going to feel good in the process."¹⁴

Rick Sharga
Senior Vice President
RealtyTrac

A record 2.87 million properties received notices of default, auction or repossession in 2010, a 2% gain from a year earlier. The number climbed higher even after a plunge in filings in the last part of the year — including a 26% drop in December — as lenders came under scrutiny for their practices.¹⁵

All these stress-related credit and debt issues cause tremendous downward pressure on the psyche of American employees. In addition to the stress created from a myriad of their own financial and legal problems, employees face the serious financial and legal pressures of caring for their elderly parents.

INNOVATION CHECK

- ✓ More than ever, older working Americans especially are feeling deeply stressed because of financial and legal problems.

The 10th Annual Study of Employee Benefits finds that "63% of employees are very certain that a reduction in Social Security and/or Medicare benefits would change their retirement stakes and would require them to

become more responsible than ever for creating a financially secure retirement. However, they also expect their employers to help in this endeavor."¹⁶

"...older Americans, employed and unemployed, may never recover financially from this latest recession, and more than half don't foresee themselves having enough money to live comfortably in their retirement."¹⁷

AARP Public Policy Report

These are new findings from AARP's latest Public Policy Institute report, a collection of data taken from a survey of more than 5,000 Americans age 50 and over who were

employed, had been employed or were seeking employment during the three-year recessionary period before they were surveyed online last October.

"In January [2012], some 1.4 million older nonagricultural workers were working part time because they had no choice, about 226,000 more than the month before. These workers, also known as involuntary part timers, were employed part time for economic reasons — that is, because of slack working conditions or because they could not find full-time work. In January, they were 5.1 percent of all older nonagricultural workers, up from December's 4.4 percent. Differences by sex have generally been rather modest in recent months, but the gap widened somewhat in late 2011. As of January 2012, 4.6 percent of older employed men and 5.7 percent of older employed women were involuntary part-time workers." ¹⁸

AARP Public Policy Report

"Many older Americans have been buffeted by skyrocketing health care costs, dwindling home values, shrinking pension and investment portfolios, and employment struggles. Even if you have a job, this survey demonstrates that you are not immune to the negative effects of the recession." ¹⁹

John Rother
Executive Vice President for Policy, Strategy and International Affairs
AARP

Overall, the recession is taking a toll on older Americans' finances, savings, health care and employment status. Most troubling, nearly 30% reported they had exhausted all their savings during the seemingly endless recession. For those having trouble making ends meet, 36.4% stopped or cut back on saving for retirement. ²⁰

Recent findings from a Gallup-Healthways Well-Being Index show that 49.5 % of older Americans have problems taking care of financial needs and thus delay getting medical or dental care or stop taking medications. Roughly 13% also began collecting Social Security benefits, and two-thirds did so earlier than planned.

"Older Americans have good reason to be worried about the future because they have less time than others to recover from the impact of the last three years. When older Americans are borrowing against their future or betting against their health, serious challenges lie ahead." ²¹

II. Stress Studies Measuring Employee Stress in General

Question Are there identifiable causes of employee stress related to legal and financial issues?

Answer Many studies have examined certain types of employee stress — stress actually caused by the workplace. But there are many causes of stress that are not so obvious because there hasn't been a definitive scientific study on the exact amounts of stress created on employees by their personal legal and financial problems. Additionally, some stresses are concealed from HR and other employees because of their confidential and often embarrassing nature, and legal and financial problems fall squarely into this category.

Whether the workplace becomes the receptacle into which more and more employee stress is poured, or the workplace becomes a safe zone with cost-effective programs that can help manage this stress is

a major question. And whether new wellness programs offer solutions in this emotional wellness category and have actual solutions to stress issues should be top of mind in every company.

Question How do these legal and financial problems manifest themselves in lost employee productivity, and where is the source of the stress caused when employees have legal problems?

Answer Our study identifies at least three (3) sources in most unexpected legal problems that cause stress:

1. The underlying legal problem;
2. Inadequate preparation to handle an unexpected legal emergency; and
3. The ongoing, never-ending nature of many legal problems and the associated financial costs and nuances of the American legal system.

Figure 4 on the following shows the many ways employee legal problems cause workplace productivity issues.



Bottom Line: Stress Costs Can Be Substantial

Stress Can be Debilitating When Legal Problems Strike - and Legal Problems Can Drag on for Years

Robert L. Heston, Jr. LegalEASE Group, 2013

To examine how much of the employee stress equation is created or attributed to the personal legal and financial problems of employees, we will start with the studies concerning how much stress employees are

under in today's workplace, paying particular attention to the stress caused outside the workplace but brought into it by the employees. In doing so, this study will refer back to findings detailed earlier.

A. An Overview of Employee Stress in the Workplace

There exists much evidence documenting the costs to business of having employees who have stressful lifestyles outside the

workplace, and extensive studies on stress caused by the workplace have been conducted over the past 15 years.

A 2007 Industrial Accident Prevention Association (IAPA) Study, "The Business Case for a Healthy Workplace," analyzed some of these lifestyle effects:

“Obviously, an unhealthy, stressed employee — irrespective of whether the workplace causes the stress or is the receptacle of the outside employee stress — will cost a company significant lost dollars in terms of absenteeism and decreased employee productivity. However, to create a business case, HR requires more than a “gut feeling” about stress-related issues. There is much evidence documenting the costs to business of having employees who exhibit unhealthy lifestyles. In addition, there is a growing abundance of data documenting that the organizational culture, particularly certain psychosocial risk factors, can have a profoundly negative impact on employees’ health, safety and well-being.”

Figure 5 below summarizes many research papers and presents a visual example that quantifies the increased risk for injuries, heart disease, depression and back pain,

among other ailments, that result from a stressful workplace, characterized by high demands, low control, high effort and low rewards.

Figure 5: Effects of an Unhealthy Workplace on Employees



IAPA (Industrial Accident Prevention Association) 2008.

B. Understanding Traditional Concepts of Stress Caused in the Workplace

Much has been written about stress caused by the workplace and the cost of stress to businesses.

About This Study

For the purposes of this study, “stress” will be used to describe the subjective feelings that result from any number of conditions either at work or brought into work (“stressors”), such as being overwhelmed by work demands that are out of our control or unpleasant “toxic” personal issues and conflicts that are brought into the workplace.

Those passing feelings may not cost anyone anything in the short term but can become very costly when intense stress results in immediate poor performance that directly impacts productivity. And when those feelings are sustained and prolonged, they result in any number of outcomes, which bear a cost to both the employer and the employee, as Figure 5 illustrates.

Clearly, employers can see that unhealthy, stressed employees will cost the Company in terms of absenteeism, presenteeism — when an employee is physically present at

work but is less productive because he is sick, injured or distracted — and decreased employee productivity. In addition, healthcare and prescription drug costs can increase when stress is treated and managed.

Other studies have further quantified the increased risk at work for injuries, heart disease, depression, back pain, substance abuse, mental health issues, infections and illnesses, conflicts and violence and even certain cancers, as the IAPA study shows.

C. Examples of Employee Cost Data

The difficulty in documenting costs for certain types of stress is lack of focus on stresses outside the workplace that are brought into the workplace. Many studies have looked closely at the costs of stress to both the

employer and the employee without focusing on the inside or outside the workplace distinction. Some are included below, and additional examples are included in the references.

1. **Absenteeism**²²

- The Canadian Policy Research Networks estimates that stress-related absences cost Canadian employers about \$3.5 billion each year.
- Chrysalis Performance Inc. research shows that stress in a business contributes to 19% of absenteeism costs.
- The cost of absenteeism attributable to work-life conflict in Canadian businesses is \$5.48 billion per year.

2. **Employee Stress Brought into the Workplace via Unhealthy Lifestyles**

The IAPA is a collection of many studies that have drilled down on the problem of stress felt not from the workplace but brought into the workplace from an employee’s personal

problems. Unhealthy lifestyles can also result in major costs to employers, such as these examples:

- Employees with four lifestyle risk factors — little exercise, overweight, smoker, high alcohol intake — are absent 50% or more than those without the risk factors and cost two to three times more in health costs.

- An employer pays an extra \$597 per year for each employee that consumes excessive amounts of alcohol.
- An employer pays an extra \$488 per year for every sedentary employee.
- Every smoker costs the employer \$2,500 per year.
- There is a linear relationship between obesity and the number of workers' compensation claims, lost workdays, medical claims costs and indemnity claims costs.
- The total cost of obesity to Canadian employers is \$1.3 billion per year.
- Obese employees spend about 35% more on health services and 77% more on medications than people of healthy weight.²³

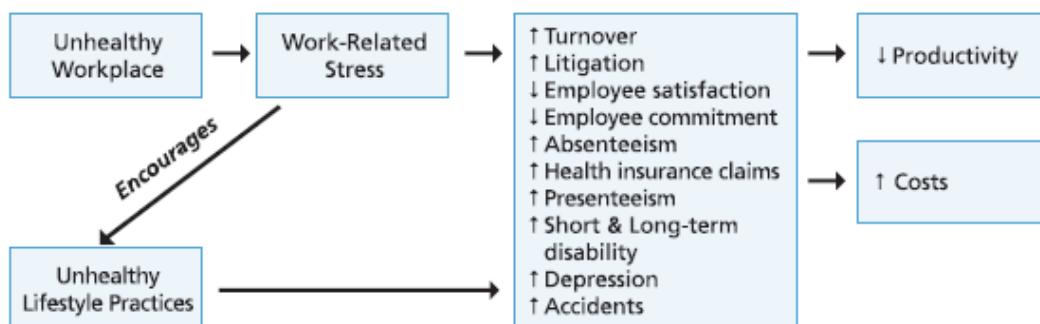
Unhealthy stress factors in the workplace can cause an employee to feel stressed (subjective feelings), which, when sustained

or prolonged, can result a wide range of negative outcomes:

- increased absenteeism,
- health insurance claims,
- presenteeism,
- short- and long-term disability,
- mental illness such as depression,
- increased turnover,
- heightened accident rates,
- increased number of grievances or lawsuits, and
- decreasing employee satisfaction and commitment.

Those factors in turn have significant costs associated with them and contribute to decreased productivity, of which this relationship is shown in Figure 6.

Figure 6



These

studies have shown that unhealthy or stressed lifestyles also “contribute to absenteeism, health insurance claims,

presenteeism, short- and long-term disability, depression, and accidents.”²⁴

Question What effects do stresses outside the workplace — personal issues — brought into the workplace have on employees?

Answer Looking at Figure 6 on the previous page, not all stress factors arise from one’s work environment but include issues an employee brings

into the workplace. These can make it more difficult to maintain a healthy lifestyle, and may in fact, encourage unhealthy habits.

Occupational stress is not related only to what goes on at work. Conflicts between the demands of the workplace and of home life are increasingly common. According to a survey completed for the U.S. Department of Labor, 10% of people who are married or living with children under 18 experience severe work-family conflict, and an additional 25% report moderate levels of conflict.²⁵

What is missing is an actual technical analysis of the causes of some of these outside stresses, particularly a focus on the stress caused by financial and legal problems. If we examine what problems might be causing stress related to an employee's personal legal and financial problems, we find that this issue was actually hinted at over three decades ago in a famous

study: An instrument for measuring the severity of the psychosocial stress resulting from recent life experiences was originally developed in the 1960s by Holmes and Rahe.²⁶

One can easily see, by nothing more than a cursory examination of the 1967 study by Holmes and Rahe, that legal and financial problems were a major part of the stress suffered from the external factors employees brought into the workplace. To measure stress according to the Holmes and Rahe Stress Scale, the number of life change units that apply to events in the past year of an individual's life are added, and the final score gives a rough estimate of how stress affects health.

Life event	Life change units
Death of a spouse	100
Divorce	73
Marital separation	65
Imprisonment	63
Death of a close family member	63
Personal injury or illness	53
Marriage	50
Dismissal from work	47
Marital reconciliation	45
Retirement	45
Change in health of family member	44
Pregnancy	40
Sexual difficulties	39
Gain a new family member	39
Business readjustment	39
Change in financial state	38
Death of a close friend	37
Change to different line of work	36
Change in frequency of arguments	35
Major mortgage issues	32
Foreclosure of mortgage or loan	30

Life event	Life change units
Change in responsibilities at work	29
Child leaving home	29
Trouble with in-laws	29
Spouse starts or stops work	26
Begin or end school	26
Change in living conditions	25
Revision of personal habits	24
Trouble with boss	23
Change in working hours or conditions	20
Change in residence	20
Change in schools	20
Change in recreation	19
Change in church activities	19
Change in social activities	18
Minor mortgage or loan	17
Change in sleeping habits	16
Change in number of family reunions	15
Change in eating habits	15
Vacation	13
Christmas	12
Minor violation of law	11

The 1967 study was updated with similar recognition of the weighted matters in a 2000 study.²⁷ Very similar results were found with

many legal and financial issues continuing to dominate as major creators of stress among employees.

Thus, as early as the 1960s, there was some recognition that the personal problems of employees — those caused outside the workplace — affected employees in a large-

scale manner and caused significant of stress. Included among the top-rated stressors in employees' lives were:

- divorce
- marriage issues
- separation
- personal injury
- changes in financial state
- major mortgage issues,
- foreclosure,
- child issues, and
- disputes with in-laws and relatives.



Consideration

What has not been examined closely since the 1967 study is how many outside-the-workplace personal problems can be tied to legal and financial issues.

III. The Urgent Need for Corporate Awareness of the Impact of Legal and Financial Problems and Their Importance in Company Benefit Programs

Question How prevalent are employee legal and financial problems in the workplace now compared to 1967?

Answer Legal and financial problems have proliferated, as seen by the references in the beginning of this study. The increase in the number of people facing legal and financial problems indicates that more employees than ever feel (i) disconnected from the legal system, (ii) disconnected from access to needed legal advice, (iii) that lawyers are inaccessible, and (iv) legal fees are too expensive.

Inaccessibility of attorneys is a major issue, according to the most recent American Bar Association Study:

“For the consumer, legal services are among the most difficult services to buy. The prospect of doing so is rife with uncertainty and potential risk. When it comes to hiring a lawyer, consumers feel uncertain about how to tell a good lawyer from a bad one. Consumers also say that it is often unclear exactly what the lawyer will do for them and how much the lawyer will charge. Faced with these uncertainties, many consumers who might need a lawyer do not hire one.”²⁸

INNOVATION CHECK

- ✓ Employees’ legal and financial problems have skyrocketed over the past 35 years.
- ✓ Personal financial and legal problems are pervasive and increased during the “Great Recession.”

The U.S. housing market was the domino that toppled many of the world’s major economies and led the world into recession. For the first half of the decade, aggressive investing by homebuyers, mortgage lenders, Wall Street investment houses and insurers drove up the median price of a single-family home by almost 10% annually, with housing in some parts of the country escalating even faster. When home prices headed back down in 2007, large numbers of homeowners faced rising adjustable rate mortgage payments or could no longer borrow against a rising home value to finance other expenses. By mid-2009, the median home price had fallen close to its 2000 level. Those with heavy investments in housing, including risky mortgage-backed securities, found them all but worthless.

The devastation to the U.S. economy spread far beyond housing. The banking industry was particularly hard hit. Altogether, 176 banks in the United States failed in 2009, many of them small and local. Even financially secure banks, not trusting potential borrowers to pay them back, stopped lending. Businesses, particularly small and new businesses, could not access credit to pay creditors, purchase inventory or pay their own workers, much less to hire new ones. Even near-zero short-term interest rates did not fully thaw credit markets. Businesses that relied on their customers’ abilities to secure loans had a rough time. Automakers General Motors (GM) and Chrysler, both of which reorganized after brief trips through bankruptcy in 2009,

qualified for bailout money. The overall economic slowdown sent stock prices reeling, with the benchmark Dow Jones Industrial Average (DJIA) sinking by about 54% in the 17 months from the market high in October 2007 to the trough in March 2009.²⁹

The effects of the biggest recession since the 1930s spread throughout the economy and into every community. The impacts have manifested themselves in legal and financial problems that have hit employees hard.

INNOVATION CHECKS

- ✓ A rise in unemployment historically correlates directly with increased credit card use. Credit cards become a means for consumers, especially those in middle- and lower-income brackets, to pay for basic living and medical expenses. Credit cards were not intended for this purpose.³⁰
- ✓ A rise in unemployment also correlates directly with credit card default.³¹ Lawsuits from these defaults, however, will probably not materialize for several years because credit card debt is typically resold many times before a creditor actually files suit.
- ✓ Credit card defaults occurring currently are likely to burden civil courts across the country for several years to come.

The amount of credit card debt in the United States is startling.

- At the end of 2008, Americans' credit card debt reached \$972.73 billion, with the average credit card debt per American household at \$8,329.
- 78% of American households have at least one credit card.
- In New York State, on average, individuals have 4.5 credit cards, and 14.8% of New York residents are using half or more of their credit.

INNOVATION CHECKS

- ✓ Financial and legal problems have increased to the extent that they are affecting virtually everyone in the workplace.
- ✓ Employee legal matters are increasing markedly each year.

The most recent American Bar Association Study on this subject, conducted in 2002, concluded that 70% of Americans will suffer some type of legal problem in the next 12 months.³² Since that time, lawsuits, legal issues and court battles have skyrocketed. Additional studies show that legal problems have increased in both frequency and severity for the average American employee. The number of lawsuits has increased significantly since the housing and banking markets collapsed in the Great Recession of 2008. In addition to the usual breach of contract and other suits, there has been a huge increase in the number of civil lawsuits and personal injury suits filed.³³

Actions in state and local courts have intensified the impact on employees in such explosive areas as credit, debt, family law, including divorce, child custody and child support issues. One of the worst economic downturns of modern history has produced a big increase in the number of delinquent borrowers, and creditors are suing them by the millions. Concern is mounting in government and among consumer advocates that the debtors are not always getting a fair shake in these cases. Most consumers never offer a defense, and creditors win their lawsuits without having to offer proof of the debts, much less justify to a judge the huge tack-on interest charges and penalties they impose. After winning,

creditors can secure a court order to seize part of an employee's paycheck or bank account, a procedure called garnishment. No national statistics are kept, but these seizures are rising fast in some areas, up 121% in the Phoenix area since 2005 and 55% in the Atlanta area since 2004. In Cleveland, garnishments jumped 30% between 2008 and 2009 alone.³⁴

Using one study for one large court system as an example, the New York City Civil Court is at the epicenter of the consumer credit crisis. Already one of the busiest courts in the world, the court has seen filings increase dramatically over the past five years, attributable in large part to consumer credit litigation. The extent of the problem is very broad. In October 2006, approximately

INNOVATION CHECK

- ✓ The housing crunch affected millions of employees.

In 2008, and continuing to the time of this writing, the housing and debt crisis has thrown millions of Americans into the legal system without warning. Scores of people had moved comfortably from being renters to homeownership from 2001 to 2007, and they saw the value of their investments increase. Many had developed side businesses buying and selling — flipping — homes and building their retirement funds in the process. When the housing bubble burst in 2008-2009, the attendant financial problems led to seriously underwater mortgages and thrust millions of American employees into default, or the threat of default, on their mortgages.

This problem wreaked havoc in the financial markets, causing unintended consequences for millions of other American employees that had allowed their debt levels to rise out of control. In a housing market that had been rising steadily, mounting debt was not an immediate problem. However, as soon as the credit markets were affected by the housing crunch, banks and financial institutions changed the terms of loans and

50,918 cases were filed in civil court in the five boroughs. In October 2007, 56,724 cases were filed, and in October 2008, 51,949 cases were filed. In each year, consumer debt litigations constituted approximately 40% to 60% of the filings.³⁵

These numbers will continue to escalate as the effects of the current economic crisis, including increased joblessness and loss of credit, develop into litigation. The average length of time court cases have taken from start to finish has increased to pre-2002 levels in worse-case scenarios, as in states like New York and California.³⁶ Technology has helped streamline cases, but the fact remains that lawsuits and legal problems are increasing in one of the bitterest battlegrounds: family law and divorce.

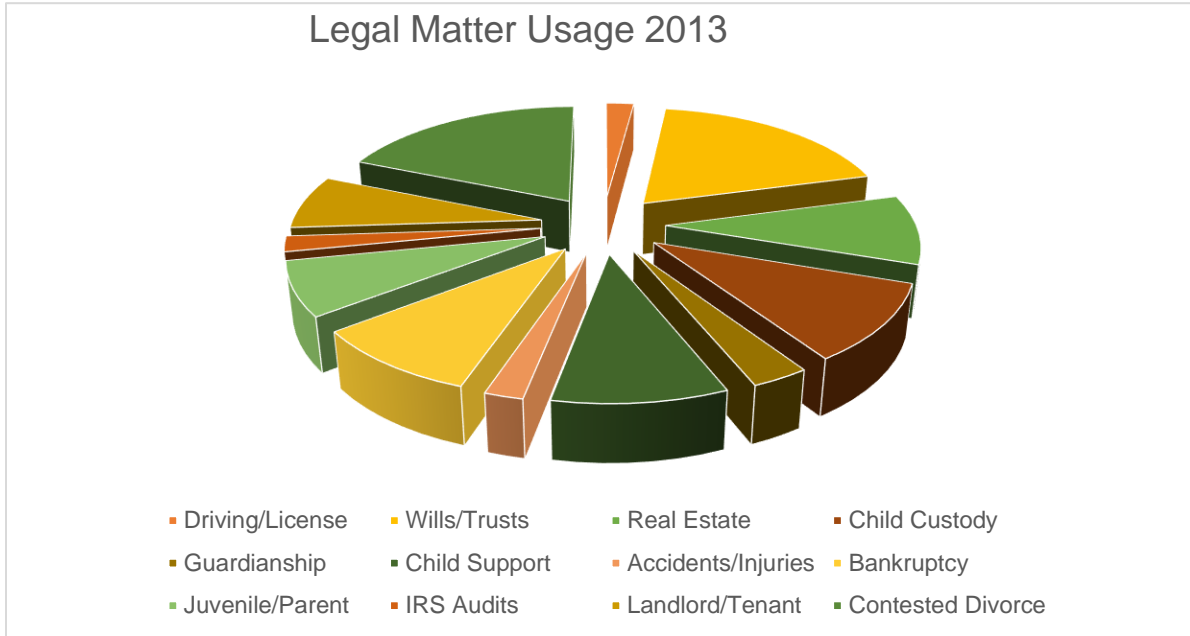
wanted less exposure to outstanding loans. This made it necessary for employees to pay down balances with funds to which they did not have access.

Unsuspecting employees had counted on the “good times” continuing. Devalued housing balances and the threat of too much debt placed a huge strain on the American economy and plunged employees into a furious cycle of constant worry about financial obligations, lawsuits, foreclosures, bankruptcy, repossession, credit card balance debt, falling credit scores and a huge need for cash. Ultimately, retirement accounts and savings were devalued and depleted to meet financial obligations.

In the past few years, little progress was made to ease the credit crunch for many employees. Foreclosures are mounting to crisis levels, and millions of Americans are walking away from mortgages and houses with values below what is owed.

Figure 7 shows the current need for legal services by area of law.

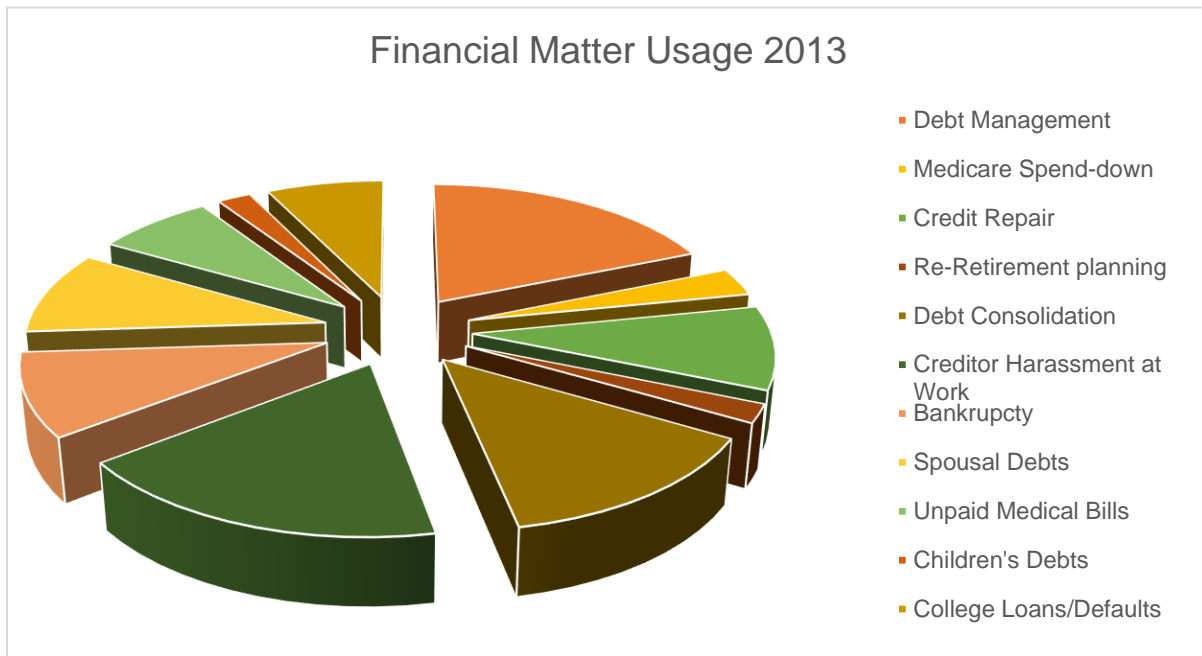
Figure 7



LegalEASE Usage Records, 2013

Figure 8 on the following page details the extensive range of legal needs related to actual financial debt and credit issues suffered by employees.

Figure 8



LegalEASE Usage Records, 2013

A. Despite employee suffering, is HR really paying attention to the effects of stress brought into the workplace?

Let's consider one example of how a typical legal problem is impacting employees across the United States, both in stress levels and in powerlessness to find help. An HR Manager who monitors current employee issues recently disclosed that more and more workers need financial and legal help, and many of her company's employees are not getting assistance or feeling an ease of their stress levels brought on by legal problems. One employee had been a motivated sales rep for the company and was a candidate a significant sales manager promotion. However, the employee's work ethic suddenly plummeted when his two-year old daughter and the child's mother were preparing to move across country to be closer to her family. There were no formal custody orders in place because there had never been a problem, and the employee had always been allowed to spend ample

time with his daughter. The unmarried couple had separated and lived apart without any formal divorce proceedings or custody arrangements since they had never married.

The employee had no idea what to do. He tried to find legal help and was referred to four different attorneys, a process that took about eight weeks. Two of them never called back to help – one was a criminal attorney and the other was a new attorney. The employee could not find legal help specific to his situation, and the legal advice he did find was not helpful and increased his stress level. During the weeks the employee waited for legal appointments, the mother moved across the country with his daughter, and he lost many of his legal rights. Distraught and under tremendous stress, the distraught employee's job performance was reflected

his turmoil: He barely got his work done and didn't meet monthly sales goals.

If that company had assisted the employee in finding the right legal counsel, could the employee have minimized his emotional and

financial stress, and would the company's bottom line have benefited also?³⁷

A 2011 employee benefits study confirms that similar scenarios are occurring in companies every day, oftentimes without HR's knowledge.

*"Nearly two-thirds of employees report experiencing financial and/or job related stress – and these concerns translate into greater distractions at work."*³⁸

10th Annual Study of Employee Benefits

The cost of lost productivity from similar legal and financial problems across the American workplace is staggering. Some HR managers wonder if every employee affected by similar financial or legal problems will be able to keep these issues from affecting the workplace.

A review of 20 years of LegalEASE' legal and financial usage data — the reports

showing how the employees enrolled in the company's legal plan are using the specific benefits in the legal and financial plan — confirms this increasingly pervasive problem for employees, as well as the widespread types of legal matters employees suffer through and how many different attorney specialties may be needed depending upon the legal problem. [See, Figures 7 and 8 on pages 25 and 26.]

Considerations

- Is the problem deeper than the current recession?
- Will companies continue to suffer the effects of employee legal and financial problems even after the recession is over?

Legal issues can affect American employees in both widespread frequency and in severity of the underlying legal problem. As we saw in the American Bar Association Study in 2002, five years before the start of the recession in 2008, legal and financial problems are being suffered by more than 70% of Americans.³⁹ Many legal problems are private, frustrating, emotionally upsetting and oftentimes embarrassing. Picture the employee that misses work after being arrested, or the manager whose son was arrested for the fourth time for drug possession or the employee whose spouse was jailed for a felony gun possession. Employees are involved in all types of legal issues, many of which are not their fault. Regardless, almost all legal problems bring with them an enormous amount of embarrassment or humiliation. And these

problems are not unique to the recession, although they have certainly been compounded by it.

Many legal problems also threaten an employee's job security. Company drivers cannot suffer through repeated driving violations in a year if their policy manual provides for termination after two violations; employees on work probation cannot miss a day of work to go to court for any legal matter; or former spouses fighting over the kids' carpool can create repetitive employee tardiness issues. The list of effects of legal problems is endless, and most all of these legal problems are embarrassing and job-threatening.

Figure 9 provides a sample list of problems that threaten employees and their families on a daily basis.

Figure 9

- Probate Expenses if a Parent/Spouse Dies unexpectedly
- Arrest/Jail Threat if College kids get in trouble
- Bankruptcy wipes out everything you have accumulated
- Repairs/Remedial Actions may cost thousands or tens of thousands of dollars
- Entire family is rocked by divorce filing
- Unexpected Appearance of “lost” child with a claim for past support/college payments
- Foreclosure is not delayed any longer and both the legal bill and the loss of the home occurs
- Repossession of car piles on credit card debt and collection agencies causing loss of car and loss of job
- Ten year old legal adoption is overturned by court on appeal
- IRS files back tax lien totaling \$68,000 from ex-spouse with no formal divorce in place
- Savings Bank Account frozen by undetected Identity Theft of social security number with over \$100,000 of fraudulent liens placed on almost paid home

Both the recession and increasingly litigious environment have escalated employees' legal and financial problems. Many employees field creditors' calls while at work, while others consider whether bankruptcy is a viable option or try desperately to restructure credit card and other debts.

In record numbers, employees are depleting their retirement funds as a source of emergency cash for various legal or financial crises.


“We are on the precipice of the greatest retirement crisis in the history of the world. In the decades to come, we will witness millions of elderly Americans, the Baby Boomers and others, slipping into poverty. Too frail to work, too poor to retire will become the “new normal” for many elderly Americans. That dire prediction, which I wrote two years ago, is already coming true. Our national demographics, coupled with indisputable glaringly insufficient retirement savings and human physiology, suggest that a catastrophic outcome for at least a significant percentage of our elderly population is inevitable. With the average 401(k) balance for 65 year olds estimated at \$25,000 by independent experts – \$100,000 if you believe the retirement planning industry – the decades many elders will spend in forced or elected “retirement” will be grim.”⁴⁰

Edward “Ted” Siedle
Forbes Contributor

“The Greatest Retirement Crisis in American History”

About This Study

The purpose of this study is to quantify some of the effects that these serious problems cause in the form of fear, depression, stress, anxiety, physical stress and emotional distress for millions of American employees, many of whom have never seen this type of devastating economic collapse. In the absence of formal studies, many HR managers may



understandably be unaware of the extent of this problem. In addition, many employees tend to hide legal and financial problems out of embarrassment or humiliation.

IV. Understanding the Specifics: What are the Actual Causes of Stress for an Employee Facing a Legal or Financial Problem?

A. Inherently, Most Agree that Legal Problems are Stressful

INNOVATION CHECKS

- ✓ A correlation exists between employee stress and an employee legal or financial problem.
- ✓ Employees are suffering verifiably high levels of stress from financial and legal problems in today's America.

The 2011 *10th Annual Study of Employee Benefits* study referenced previously looked at employee groups across all ages to determine the impact of financial troubles on employees, noting:

*“Stress is associated with exacerbating and driving health problems, and financial stress is a prime cause of personal stress. The recession has resulted in widespread financial insecurity across all employee age groups. In fact, there is a virtual ‘epidemic’ of financial ‘illness’.”*⁴¹

10th Annual Study of Employee Benefits

*“As much as employers have been focused on traditional health and wellness, there is compelling evidence that ‘financial illness’ also contributes to health care costs, as well as to reduced productivity. Employee financial security may be a major driver in accomplishing business goals.”*⁴²

Personal Finance Employee Education Foundation

Figure 10 provides a snapshot from the MetLife study of employee concerns.⁴³

Employees Who Report that They are Very Concerned About...					
Age Bracket of Employees	20-29	30-39	40-49	50-59	60-69
Having enough money to make ends meet	53%	49%	52%	58%	52%
Job Security	50%	52%	49%	51%	52%

Employees Who Strongly Agree that...

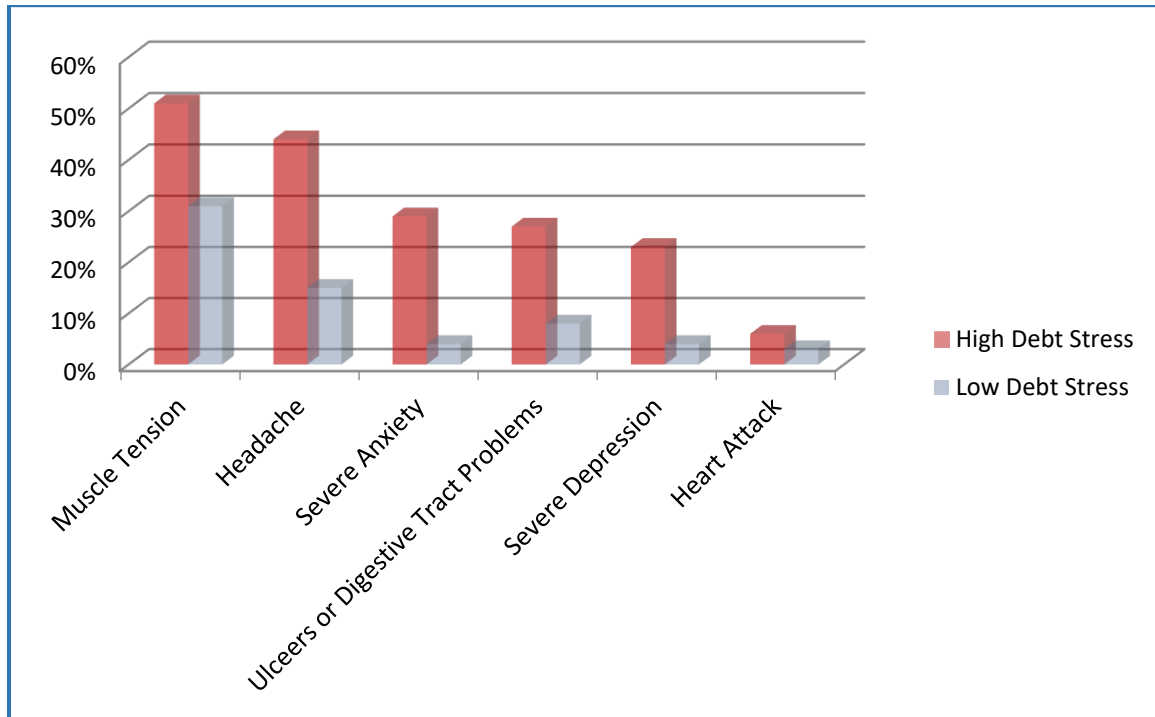
Age Bracket of Employees	20-29	30-39	40-49	50-59	60-69
Have trouble paying bills	53%	33%	32%	31%	23%
Living paycheck to paycheck	40%	43%	41%	43%	35%

Among the key findings: ⁴⁴

- There is a direct association between health risk and stress tied to financial struggles.
- Employees that are not in control of their finances or that live paycheck to paycheck are more likely to report worse health.
- Poorer health is associated with stressful financial situations.

The study also shows exactly the nature of health-related issues employees suffer from financial stress, and Figure 11 demonstrates the pervasiveness of this problem.

Figure 11: Poorer health is associated with stressful financial situations. ⁴⁵



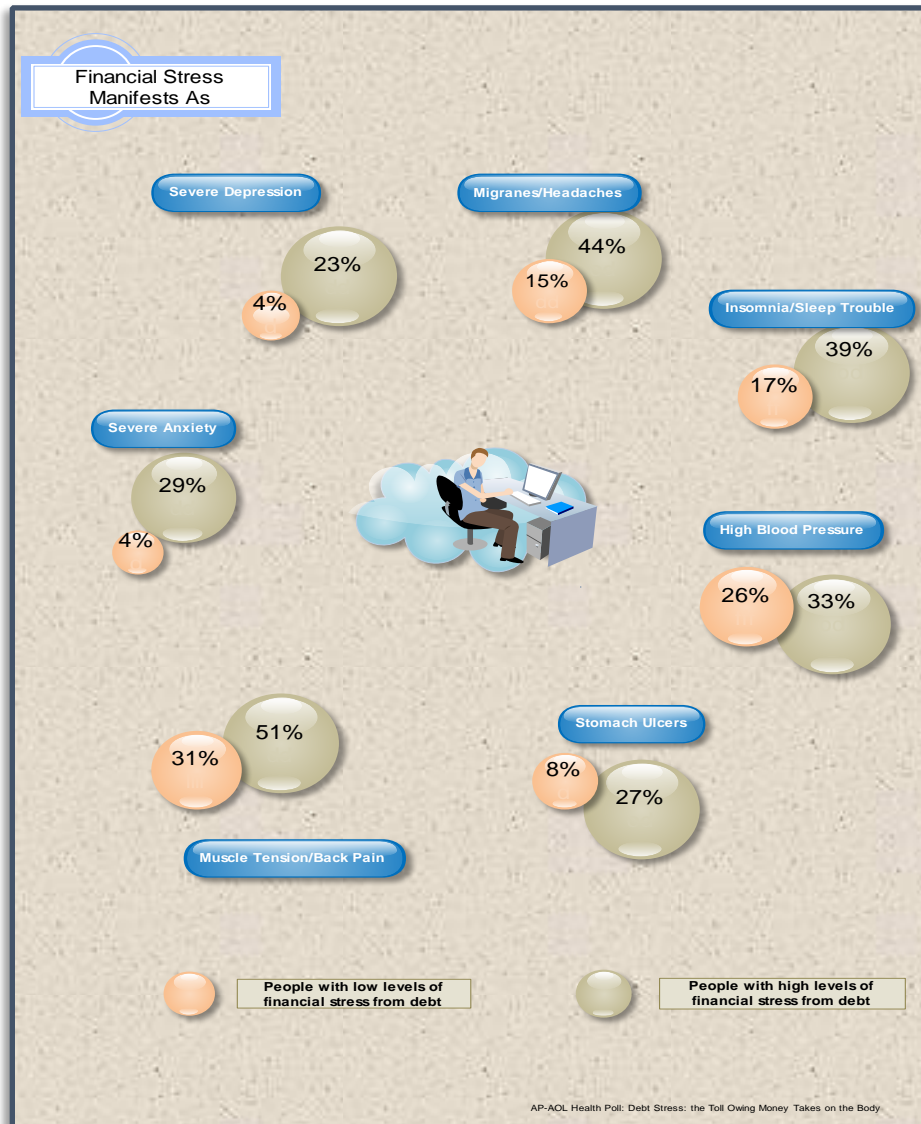
As part of the study, MetLife interviewed a number of HR professionals, of which one reported:

*"I think stress is a huge driver of illness – physical, emotional – and it's mixed together. We have lots of people having financial struggles right now. Disabilities are up. Depression is up."*⁴⁶

HR Professional (1,000 – 3,000 employees) Chicago, July 2010.

In Figure 12 below, a study for the American Psychology Association shows the effect on health of serious stress problems related to debt.⁴⁷

Figure 12:



About This Study

Why are these stress effects present and how many are caused by upset, anger, frustration, worry and anxiety over these financial and legal issues outside the workplace? This study addresses that very question.

While the Study cited above demonstrates that employees were suffering financial impact from their problems, we still need to understand exactly how much of this stress

is related to the legal and financial problems of employees and understand how much this may be costing the employer.

- We must first attempt to understand how these legal and financial problems actually create stress in employees, which is something that has not been analyzed in detail in the past.
- Once we understand how stress is caused or increased by legal and financial problems, we might then determine if there are existing programs, wellness or other programs that can manage or even decrease these personal stress factors.

A number of key questions must be addressed relative to employee drug, tobacco and alcohol use.

- How many employees engage in excessive behaviors because of underlying problems not related to stress in the workplace, but rather caused by stress pressures in their personal lives that they bring to the workplace?
- How many employees use drugs, alcohol, excessive eating and related factors to mask, hide or deal with financial or legal problems threatening bankruptcy, calls from collection agencies, job loss, divorce and related problems?
- Are there other causes of harmful and costly lifestyles that lead to credit card debt increases, expenditures of retirement accounts, savings accounts and emergency fund accounts, and the threat of large legal expenses related to handling debt or collection litigation?

If employers can understand exactly how outside financial and legal issues cause employee stress, which employees bring into the workplace, employers can better help workers manage and possibly eliminate personal stress. Similarly, if HR better understands the impact of employee legal and financial issues impacting the workplace, HR managers can better understand the root causes of issues impacting company-wide productivity, injury and increased healthcare costs.

This need for understanding has become hypersensitive given the so-called “Great Recession of 2008” that sparked lawsuits and legal fees impacting millions of Americans. HR and Benefits Managers must have a clear understanding of the issues with which workers grapple beyond the workplace if companies are to deal successfully with the outside stressors that bring harmful effects to their employees. Simply stated, companies must implement targeted programs to help their employees. But stepping back, some of the programs being implemented may not be focused on the source-based causes.

B. How Legal and Financial Problems Cause Employee Stress

Once an employee is drawn into a serious financial or legal problem that includes the

legal system, a series of challenges arise that can substantially impact the already high

stress the employee feels. For most employees, there is a significant gap between hoped-for expectations of what the legal system can deliver and its actual realities. Because legal and financial

problems can be so debilitating, it is critical that HR understand each of these challenges since each may cause a mountain of stress-related workplace problems.

There are essentially four (4) major challenges that cause employees to seriously misunderstand the legal system and handle associated emotions and stress:

1. the stress caused by the legal problem itself;
2. the exorbitant cost of legal help and solutions;
3. not knowing which attorney to use or not having access to an “emergency” attorney when one is needed; and
4. a complicated legal system that most employees do not know how to navigate alone.

Each of these challenges causes stress, and when compounded by the presence of other challenges, the challenges can paralyze an employee.

1. Challenge One: Stress Caused by the Legal Problem Itself

Legal problems come in all shapes and sizes — divorce, child custody battles, parental kidnappings, bankruptcy, foreclosures, arrests, juvenile court, domestic violence, will

contests, neighbor disputes, contentious legal problems — and serious stress can be caused by the underlying legal problem itself:

- family-wide devastation from a divorce filing;
- probate expenses when a parent/spouse dies unexpectedly;
- arrest and potential incarceration of oneself or a family member;
- bankruptcy that wipes out a lifetime of accumulation;
- costly repairs and remedial actions;
- unexpected appearance of and financial claims by a “lost” child;
- foreclosure and the associated legal bill and loss of home;
- automobile costs that may include credit card debt, collection agency pressures or repossession that leads to loss of car and loss of job;
- a legal adoption overturned on appeal;
- IRS back tax lien filing from a former spouse with no formal divorce in place; or
- undetected identity theft of Social Security Number that leads to frozen bank accounts or fraudulent liens placed on almost-paid-for home.

One of the most obvious problems is when an employee files for divorce or is served with divorce papers. The stress level skyrockets, particularly if the divorce was unexpected, because the employee must respond immediately to the divorce petition. Chances are, the employee feels lost, life is turned upside down, issues with children must be ironed out and there is the prospect

of losing friends, a lifestyle and financial and material holdings acquired during the marriage.

The employee’s concentration shifts away from work to divorce, and feelings of betrayal, frustration, anger and even rage emerge against the spouse who is “doing this.” Managers or supervisors who have

witnessed an employee going through a lengthy and nasty divorce can attest to the effects on the workplace, which can be turned upside down.

Several recent studies have directly linked marital and relationship breakdown to the increased likelihood of developing serious physical and emotional disease.

- A multi-year study found that men who divorced or separated were 3.3 times more likely to experience depression than men who remained with their spouses. Among women, the odds of depression after a break up were about 2.4 times higher. For many in the study, depression remained a problem for as long as four years post-divorced. (Statistics Canada, The Daily, May 22, 2007)
- According to University College in London, stress associated with marital struggle was found to increase the likelihood of a heart attack or other heart trouble in both male and female subjects by as much as 34% over the 12-year life of the study concluded in 2007.
- The American Diabetes Association has suggested that stress caused by poor relationships aggravates diabetes for those afflicted with the condition.
- Researchers at Ohio State University found that when couples re-lived past arguments, self-inflicted blister wounds healed at only 60% the rate of wounds inflicted on couples who exhibited lower-hostility behavior.

But that's not all. Studies compiled by Life Innovations in 2006 on behalf of the Marriage Commission had key findings:

- Immune system function is lower in couples surviving poor relationships compared to couples enjoying satisfying relationships. (Waite & Gallagher, 2000)
- The likelihood of domestic violence grows as relationships fail. (Gallagher, 2002)

Domestic violence costs Corporate America up to 7.9 million paid workdays of lost productivity annually. (Corporate Alliance to End Partner Violence, 2006)

- Unhappily married couples are almost four times more likely to have a partner abusing alcohol than in happily married couples. (Whisman, Uebelacker, & Bruce, 2006).
- Those with alcohol problems skip or miss work 30% more than those without such problems. (U.S. Department of Health and Human Services, 2004)⁴⁸

There are other examples in which the legal problem itself can be the cause of major stress because of the high costs of battling or defending a lawsuit. These may include being sued to recover an unexpected and substantial medical expense incurred by an employee, a lawsuit to recover damages and serious injuries caused by an employee's spouse's or child's car accident, and lawsuits

over evictions, repossessions, creditor pressures, collection calls, foreclosures and mortgage or student loan defaults. Each of these situations causes serious and increasing amounts of employee stress, as well as worry, anxiety, concerns, upset, anger, depression and even rage in some instances.

C. Challenge Two: The High and Unexpected Cost of Legal Help

A fundamental stress producer inherent in the American legal system is high attorney fees and repeated delays that can cause

- the lack of an emergency fund to pay for legal fees;
- the inherent and seemingly unnecessary delays that cause the legal bill to escalate; and
- the often unfounded but prevalent expectation the opposing party will pay all legal fees if the employee is not at fault in a lawsuit.

a. Employees do not have thousands or tens of thousands of dollars in reserve for legal expenses.

The bottom line is simple: Attorney expenses drive whether an employee can start or continue a legal case. Since most employees do not have an emergency fund for legal

legal expenses to skyrocket. This second challenge has three sub-parts:

fees, not having money to pay for legal counsel may be one the most substantial producers of employee stress.

Question Why is the cost of legal help so high?

Answer Legal expenses are high, in part, because of litigation costs have skyrocketed and modern legal problems can be very complex. ⁴⁹

The fear of unaffordable legal fees paralyzes many moderate-income Americans from accessing legal assistance. And while would-be clients, courts and lawyers struggle to find

cost structures that bridge the gap between needs and services, another barrier — **distrust of the private bar** — is cited repeatedly. ⁵⁰

“What most people don’t realize is that — while how you divorce or what there is to split may play a part in the cost — the number one way for you and your spouse to save money in a divorce is to deal effectively with the emotional aspects of the split.” ⁵¹

Susan Pease Gadoua
Divorce Expert and Author

Of course, dealing with the emotional aspects of divorce is easier said than done. With the build-up of many years of anger, resentments, neglect or jealousy, as well as demands for justice and vengeance, these emotions can and often drag cases through years of litigation.

lawyer fund and may be forced to use their savings, take out a loan or even borrow money from a 401k retirement account. In addition, most employees are not sure how much money might be involved in resolving disputes.

The net effect of a lack of extra funds can force the settling or abandoning of a lawsuit or legal dispute before the case is won since most employees do not have a rainy day

Many employees do not understand the billing system in the legal world, nor do they understand how fees can be so high. Under a microscope, legal fees can create a number of misunderstandings.

- A lawyer generally charges an hourly rate for time spent on a legal situation, not based on the outcome or results. Experience, expertise, personal relationships with the judge and other non-tangible services are also reflected in an attorney's hourly rate.
- Broken down into its technical aspects, what causes problems and, ultimately, stress for an employee as a lawsuit continues drags on lies at the intersection of two sub factors:
 1. the complicated and overwhelming legal system procedures that require more and more explanation from lawyers to help employee-clients better understand what is happening in the case; and
 2. the reality that the more explanation the lawyer provides the client equals more time the lawyer spends on the client's case which leads to a higher legal bill.
- Clients of law firms routinely complain about legal fees, but few take the time to understand how lawyers record their billable hours and generate legal fees. Clients continue to pay for legal fees, so they must feel in some way that the fees are a good deal, but they often resent an attorney's bills because of a lack of understanding about the way lawyers bill their time.⁵²
- It may not be until a client sees the first attorney's bill that it is clear time equals money. Every time a question is asked or a conversation takes place with a lawyer, the bill goes up. To keep costs down, the client may stop asking questions and the lawyer may opt to spend less time on a client that can't afford large monthly legal bills.

When you put the employee's perspective under a microscope, more misunderstandings unfold:

- The employee sees the legal system as complicated and unwieldy.
- Not being informed about what is happening in the case or why certain things happened hurts a client's understanding of the legal process.
- Attorney failure to provide a detailed explanation of the legal processes and procedures leads to a lack of understanding, which in turn leads to frustration, anger and other stress factors.

Here are some comments of participants in the previously referenced major ABA Study:

"I was very impressed (with the work the lawyer did for me), but shocked at the charges because I did not realize they bill you for every little minute. The overall complete thing was wonderful, but we paid out the nose to get all the estate trust settled. But, it's not something that a normal person can do, and there are all kinds of rules and regulations."

Female, 62
Dallas, Texas

"My lawyer told me that for a divorce, to set up the paperwork was going to be \$750 to \$1,000. By the time I was through with it, it was \$7,000. I don't know what happened. I wasn't in there through most of it."

Male, 46
Dallas, Texas

"What they do is they charge you so much for ten minutes or so much for an hour, but they never come forward with their accounting of all of their minutes."

Male, 61
Chicago, Illinois

"I had one lawyer with a law firm, and I said, 'Before we go any further, what are you going to do for me?' And, they couldn't answer me. I said, 'But, you took my money. How can you put a price on something when you don't know what you're going to do?'"⁵³

Male, 67
Boston, Massachusetts

When an employee feels that an attorney is spending little time on the case or is not communicating developments, the employee's stress increases, particularly as the case progresses. As a client, the employee has questions, needs answers and explanations, and gets frustrated when the attorney is not forthcoming. The employee also gets increasingly upset having to spend more money to get seemingly simple answers to basic questions.

In this era of information overload from the internet and other sources, an employee may have a difficult time when adequate information is not provided by the attorney and may feel that the attorney is not interested in educating and updating about the case unless billable time is involved. After all, a client might reason, all that's needed is an understanding of a few critical legal terms that may help the litigant be make the more informed decisions about the legal matter.

Now consider a workplace scenario in which employees are involved in protracted litigation. Without an understanding of the legal system, the employees may become increasingly frustrated at both the system and their attorneys. For some employees, this will spur bouts of depression or missed

workdays. Others, equally anxious, lack focus on the job, as their minds are consumed with the uncertainties surrounding complicated legal scenarios.

For a forklift driver preoccupied with the fear of losing a child to a drunken or abusive spouse through a court action, this could spell danger to himself and others, and the costs of these problems to the individual worker, business associates and the company can be huge. Without warning, the distracted forklift driver, for example, might dump an entire palette of heavy machinery on several unseen employees taking a coffee break.

In addition to major accidents and injuries on the job, costs can also include absenteeism, the lack of focus of a worker on the job — presenteeism — along with mistakes and internal conflict that impact productivity.

If employees could better understand the fundamental hurdles in the legal system, and if more effective solutions and support for workers could be implemented, the immense personal costs would be reduced significantly. Similarly, if HR could better understand these issues, steps could be taken by the company to find ways to confirm that help is on the way for employees.

b. Inherent delays seem unnecessary and add thousands of dollars to the legal bill.

The second part of the second challenge — the lack of reserves set aside to pay for the high cost of attorneys — is the pressure caused by delays in the court system that also add to the attorney bills.

Before being involved in a lawsuit, many employees may not fully appreciate how long it takes to get a case to trial or resolution. One of the most widespread obstacles to a fast and satisfactory resolution of a lawsuit is accepting that court rules and procedures may actually impede a quick resolution. In a nutshell, the lengthy procedural steps in America's legal system are real.

The Institute for Legal Reform conducted a detailed study about lawsuit delays.⁵⁴ One of the most common complaints about the court system, particularly when compared to mediation, is the timespan and its impact on legal fees.

This frustration with delay can be illustrated by one of the most common issues confronting an employee-participant in most any court action. As an example, the opposing party asks the judge for a continuance [a postponement of the court business already scheduled for that day] for a date several weeks in the future. Without realizing the impact on his or her own client,

the attorney for the employee-participant agrees. Continuances — postponements — are a normal procedure in all court cases and are routinely granted for a myriad of reasons.

While this may be routine in the legal system, the employee probably does not understand why his attorney never spoke up for his client's position to the judge and why there was no progress in court despite the employee having taken a full day off work. Before court cases even begin, however, lawyers are able to make a number of motions that add more time to pre-trial actions. The motion that is most obviously a cause of court delays is this continuance, which allows a party to choose to wait to go to a hearing, motion or even trial until a later date.⁵⁵

Repeated delays in the case create serious frustration and stress for an employee that does not want to compromise, believes a win is forthcoming or cannot see the lawsuit being resolved in any realistic timeframe. In most cases, the employee is already having serious financial or legal issues because of the lawsuit, and delays exacerbate the financial strain. Other employees may complain that lawyers drag out and overstaff cases unnecessarily, possibly to inflate their expenses on a case.

Participants in the American Bar Association Study⁵⁶ offered these comments:

"I gave a deposition a while back, and the other side had three lawyers and an assistant there. There were four of them, and I had my one lawyer. The other side was probably \$1,000 or \$1,500 an hour for asking me questions. They didn't have to do that to their client. One of them could have asked all of the questions."

Male, 57
Los Angeles, California

"Sometimes lawyers are very shrewd in knowing how to drag a case out. And, the reason for that is the fee keeps going. They are not stupid."

Male, 58
Boston Massachusetts

“I had an experience with one lawyer where I just felt they were money hungry. They stretched it out over a year. To me, they deliberately held on to my check so they could get interest on it.”

Female, 32
Los Angeles, California

In reality, an attorney for one side may often give the other side the benefit of the doubt early on for a continuance requests in case he himself needs one in the future. If an employee-participant doesn't understand how the system works, frustration and stress mount early. As litigation proceeds, the need to end the lawsuit somehow becomes more pressing to the employee-participant, which can cause even more stress for several reasons. The employee may realize their attorney is part of unwanted delays, the lawsuit is not getting resolved and justice is not being served because of ongoing delays.

Anger, frustration, mental anguish, depression and helplessness are all caused by financial and legal issues and often do not appear to decrease or go away as the

c. Many employees mistakenly think the opposing party will be forced to pay all legal bills.

There is generally a complete lack of understanding as to who is responsible for paying lawyers in a lawsuit.

To illustrate, consider this scenario. An employee is incorrectly billed \$44,000 one month for mobile phone usage fees when the monthly bill averages \$200. During phone calls to dispute the charges, several mobile

Employee Belief: I will be able to recover most most of my costs when I win my lawsuit.

Reality: In most cases, without a prior written agreement, each party pays its own legal fees and expenses.

An employee involved in a lawsuit may also believe that attorney's fees will be recovered at the end of the case if the ruling is in his

litigation moves ahead. While most employee-participants initially believe a lawyer should make “it” go away once the lawsuit is filed, delays stare back at them. In reality, the legal system itself causes increased stress over and above the stress and anger the underlying lawsuit causes.

These inherent delays oftentimes seem unnecessary and without merit, and the procedural steps in almost every court action increase an attorney's time and fees. An employee-participant will feel stress, anger and frustration that the attorney is working in the legal system but seemingly not for his benefit. This increased stress and frustration carries over into the workplace, becoming a serious external circumstance with a range of work-related consequences.

phone company associates admitted the charges were incorrect and the employee should not have to pay. However, the employee is sued for \$44,000 plus interest and attorneys' fees. At the outset, the employee believes he will be vindicated, the incorrect bill will not have to be paid and the mobile phone company should pay the employee's attorney's fees.

favor especially where the case seems bogus. In limited situations this may be true, but each party generally pays its own costs

and expenses, even when a lawsuit is bogus or the suing party is wrong. Unfortunately, an employee may not realize until some point during the court process that the legal fees will end up costing as much as or even more than the amount of the legal battle. This is our example above – the employee has to unexpectedly defend a lawsuit, hire a lawyer and find money to pay retainer fees – all on a lawsuit that the company’s employees have admitted was a mistake. Yet, there is no easy forum by which to vindicate himself and explain the \$44,000 mistake.

To the employee, this seems not only unfair, but also the significant cost associated with legal representation exponentially increases the high degree of frustration, dissatisfaction, stress, anger and emotional distress associated with the financial or legal problem. After all, the offending party has already cost the employee a significant amount of money, and now the employee must spend more money to pay for an

attorney to try to recover the loss, have the lawsuit dismissed or resolve the issue.

It is not surprising, then, that employees routinely report that delay and the resulting expenses exceed fairness and create an enormous amount of hostility and anger and a lack of concentration routinely brought into the workplace.⁵⁷

An employee engaging with the legal system for the first time will often be distressed to learn it operates differently than expected. Stress is ignited the moment a person walks into an attorney’s office or courtroom. Trepidation and discomfort heighten the pressure, which all too often carries over into the workplace. This stress is exacerbated more when the employee, such as the one in the mobile phone lawsuit scenario, believes he is on the right side of the litigation and should not even be in court. This expectation can create a disconnected gap between belief and reality.

3. Challenge Three: A Legal Problem Strikes an Unprepared Employee

Another of the most misunderstood problems that causes substantial amounts of stress, absenteeism and increased healthcare costs for an employee is the process one must go through when a legal emergency first strikes.

The primary problem for an employee is not having an established relationship with an

attorney when a legal problem arises. Unlike an existing relationship with a doctor when sickness strikes, most employees may not have an attorney to call upon when a legal crisis strikes. The problem is exacerbated if an employee thinks he has an attorney that can handle the case, when in fact he does not.

Question How does the lack of an attorney relationship or knowing the right type of attorney to handle a case impact an employee?

Answer Employees with legal problems are largely on their own to find the right lawyer. Upon being served with a lawsuit, an employee must scramble to find an attorney who can handle the case. Lawyers that advertise on TV and billboards generally only handle a certain type of case and cannot help, and this oftentimes is the only attorney an employee knows to call.⁵⁸

a. The “Race” Against the Clock – Time Deadlines in Court Cases Create Tremendous Pressure to Find an Attorney Quickly

This race against the filing clock takes shape every day for thousands of

employees embroiled in lawsuits and following a predictable chain of events.

- An employee receives the Summons and Complaint/Petition with the requisite days to respond — or default.
- The employee calls referred attorneys.
- The employee takes off of work for scheduled appointments, only to find that the attorneys are not the right attorney, generally based on experience, disposition or pricing.
- The employee then combs the Yellow Pages or searches online, making call after call to attorneys and chasing dead ends.
- Days turn into weeks.
- The employee misses several days of work for more attorney visits, which yield nothing except more possible referrals.
- Default is at risk.
- The employee becomes desperate.
- In addition to time off for attorney visits and consultations, the employee sees a physician or psychologist due to heightened lawsuit-related anxiety, fear, depression and lack of legal assistance.

Whenever a lawsuit is filed, there is generally a 20- to 30-day mandatory deadline to respond to the lawsuit filing, depending upon the state in which the lawsuit is filed. Under the pressure of the 20-30 days mandatory deadline, an employee must quickly get leads for attorneys. After identifying several lawyers for potential representation, an employee must, through a rudimentary interview process, attempt to visit each attorney, discuss fees and choose legal counsel, based on very limited information, to handle the case. It is estimated that an employee must take off of work and make at least four visits to different attorneys' offices to find one that can take the case.⁵⁹ And getting appointments can easily take up the majority of the 30-day time limit waiting for the attorney to respond with an appointment.

It is true that lawyer advertising has made it easier to find an attorney. However, there is still a problem in finding the right attorney for specific needs. If a lawyer is inexperienced,

- failing to keep clients informed on the progress of their cases,
- failing to protect clients' interests,

incompetent or lacks the willingness or ability to communicate effectively, the employee-participant will not be satisfied with the lawyer's service. In order to find the best attorney for each legal matter, an employee needs more than a list of names of attorneys.⁶⁰

Certain legal cases, such as personal injury or wills and probates, have many attorneys advertising their services. However, the vast majority of cases facing employees are not cases in those areas, leaving employees to feel as if attorney access is nonexistent for a legal matter with an immediate deadline.

Consumer dissatisfaction with lawyers has become a major problem. A survey taken in 1995 by Consumer's Union revealed that out of 30,000 respondents, one-third were not well-satisfied with the quality of their attorneys' services, citing key attorney shortfalls:

- failing to resolve cases in a timely manner, and
- charging unreasonable fees.

This widespread dissatisfaction is linked to the lack of knowledge by consumers on how to find attorneys experienced with the types of problems they are facing, as well as knowing what questions to ask a lawyer. The results of a 1,000-person survey reported in the Florida Bar Journal revealed that nearly one-half of those surveyed said it was hard to find a good lawyer, and more than a quarter of respondents said they didn't know how to find a lawyer. It is remarkable that 80% of respondents said they wished there was a source for information on lawyers' experience and credentials.⁶¹

Additionally, many employees believe they know attorneys that can help them if a legal matter arises. Many employees have family members or in-laws that are attorneys or have friends or colleagues that have used an attorney in the past. While they believe they could call these attorneys if they ever had a legal problem, reality sets in with deadlines looming to respond to a petition or face default, when employees learn for the first time that those attorneys may not be a good fit for a range of reasons:

- the fees are too high and unaffordable for the employee,
- the lawyer's specialty is not aligned with the employee's needs, or
- the lawyer is not taking new cases.

b. Widespread Misunderstanding of Retainer Fees

This is often an endless scenario and usually results in an employee having to settle for any attorney who would respond to them and take their case at what appears to be a reasonable fee called a retainer fee. Retainer

fees can be confusing to employees and cause great amounts of stress when they learn the nature of these fees. Specifically, there are usually two (2) major misconceptions with retainer fees:


1. Traditionally, when hiring a lawyer, the retainer fee must be paid upfront and can range from several thousand dollars to as much as \$10,000 and upward before an attorney will begin working on the case. An employee is not prepared to pay this amount and may tap into savings or retirement accounts or max out credit cards to pay these unexpected fees.

"It is vital for workers to do all they can to help avoid tapping into their retirement savings."⁶²

Catherine Collinson
President Transamerica Center for Retirement Studies

This problem may be the largest part of the employee stress equation and also the most difficult to understand.

2. The second problem that is not apparent to an employee hiring an attorney for the first time, is that many attorneys quote a low upfront retainer fee to get the case in the door," followed by higher fees that have to be paid sooner than those quoted by other attorneys with larger retainer fees. Employees who end up paying the low retainer fee often do not



understand that more fees will be required to be paid as the litigation progresses and that retainer fees are not the “one and only fee.” This pressure to come up with more money “unexpectedly” creates an enormous amount of pressure on the employee and distrust of the employee’s attorney.

Left unchecked, legal and financial problems will inevitably thrust employees into the legal system in some form. And as we will see, workers are largely unprepared when they are thrust into America’s legal system.

Let’s go back to our issue of one morning an employee is served with divorce papers not anticipating being embroiled in a lawsuit for the next two years. Upon being served, questions abound for that employee: Who will help me? Who will represent me? How much will it cost? Where will I live, and how much is the rent? How can I see my children? All types of significant life issues are visited in almost every divorce as the reality sets in that the marriage will not continue. The levels

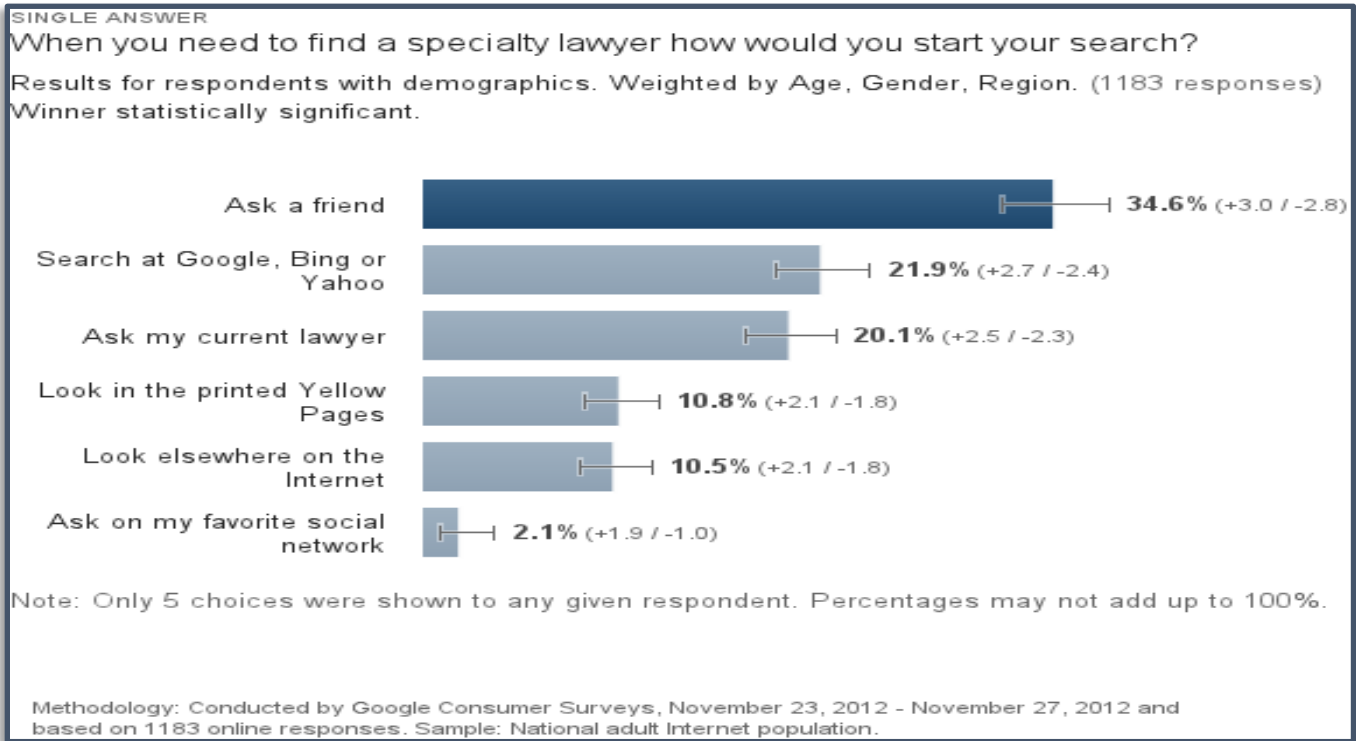
of stress may skyrocket, depending on the employee’s character composition and the preparedness for this life event.

An employee’s emotional state is a critical component during legal problems like divorce. If the employee is not able to let go of negative emotions and be logical, it will be impossible for the employee to negotiate financial issues effectively. The same applies if the employee’s spouse is unstable, in which case the employee will need to consult with a psychologist help understand irrational behaviors.⁶³

c. How Does an Employee Search for an Attorney? - A Typical Search for An Attorney

Figure 13 shows the ways employees search for attorneys when a legal problem arises unexpectedly.

Figure 13:



Not surprisingly, most people ask a friend for an attorney referral. Even in the online and social information age, people still rely on their friends, as well as other people they trust.⁶⁴

But why don't more employees know lawyers who can help them? Finding an attorney seems like it would be easy, given all of the attorney advertising, the billboards and the access to advice. Everywhere we turn today, there is a commercial or web site that promoting legal services. When the United States handed down its decision in *Bates v. State Bar of Arizona*, which struck down state laws prohibiting lawyers from advertising as an unconstitutional interference with free speech, it was widely thought that it would then be easier for individuals to find an

attorney. This belief was based on the premise that since lawyers were allowed to compete in the same way as other businesses, it would be easier to meet consumers' needs for legal representation and legal costs would go down.

But fears associated with attorney selection are not only monetary. The effects of losing the underlying case can be devastating - an employee may lose custody of their child, spouses may be hiding resources to increase child support income, credit scores may be preventing re-financing and mortgage problems, and an automobile repossession may prevent an employee from getting to work on time or at all. Thousands more examples like these are causing substantial amounts of employee stress.⁶⁵

4. Challenge Four: Lack of Concrete Information about the Legal System, the Client/Attorney Relationship and Procedural Hurdles in the Path of a Case Resolution

The fourth major challenge for employees facing the American Legal System has three parts:

1. different expectations about the system leads to much stress and worry when an employee finds out their attorney is often not as available to help as the employee expects;
2. not receiving the expected guidance and understanding while their case winds through the legal system; and
3. the failure on the part of employees to understand that the Legal System is set up to almost require parties to compromise their cases and settle the matters without winning and that an actual trial is rare.

Part 1 of the Fourth Challenge – Vast Differences in Expectations

Perhaps by understanding this part of the fourth challenge — how different employee expectations are of the legal system compared with the realities of the system — both employees and their HR managers and companies can better understand what tools may be available to reduce these ever-increasing stress levels when a lawsuit arises.

Another conclusion of the 2002 American Bar Study examined earlier was that most Americans are ill equipped to face the challenges of the judicial system.⁶⁶ Survey participants expressed frustration with the delays, costs, procedures and complexity of the courts and legal system. Most Americans equate being involved in a lawsuit to having a root canal for each day the lawsuit drags on, sometimes for several years. The lack of understanding of how the system works and the lack of available information to explain many court idiosyncrasies are two of the

largest contributing factors that make employees ill-prepared to navigate the legal system.

Most HR managers intuitively know there are complications anytime one engages with the court system or lawyers. Though they may not fully understand the complexities of the legal system, most HR managers and employers can relate to the pressures, costs, uneasiness, unpredictability and uncertainty faced by those who must deal with it.

While some might suggest the nation would be better off without lawyers, we often fail to consider the help lawyers provide. For example, if a teenager is arrested on a drunk driving charge that results in a court record that might keep the teen from professional schools and societies, a good lawyer quickly becomes an ally. Lawyers can achieve other similar positive results:

- when businesses are able to freeze the bank accounts of a debtor and recover the money the debtor refused to pay for goods;
- when homeowners are saved from foreclosure after litigation shows the mortgage company's mistake in payment allocation;
- when a spouse is able to thwart a court-ordered child visitation schedule preventing an ex-spouse from spending time with children after a divorce;

- when spouses are reprimanded for non-compliance with court-ordered child support payment schedules;
- when elderly parents are prevented from unknowingly depleting their entire estate, leaving the other spouse virtually penniless, so one spouse can receive nursing home care; or
- when the parents of a college student face a lawsuit because their child paralyzed a six-year old girl in a car accident.

For these reasons and many more, it is clear we need lawyers. What can help lower

anxiety and stress levels is learning how to work better with them.

Action Item: HR must understand how the legal system’s intricacies can create problems for employees caught in its web and unaware of its subtle traps. These intricacies and traps cause serious frustration levels. If HR managers know exactly what tools these employees need to better handle the financial and legal issues, much of the stress on employees can be better managed or even eliminated.

Let’s expand on a deficiency we saw earlier: the idea that when an employee needs help

with explanations, the lawyer may be unavailable for cost reasons.

Employee Belief: When I am suing or being sued, my case is extremely important to me, and it will be important for the court. I am paying this lawyer a ton of money. The court and my lawyer will be able to answer all my questions whenever I need help.

Reality: The court system has a substantial number of cases and often a serious backlog, and cases have limited court time or resources.


The stringent requirements, rules and procedures of the legal system convey an extraordinary seriousness and create fear and apprehension among employees engaged with it. For example, imagine an employee being handcuffed, wearing an ill-fitting orange uniform and being led into a court room in the United States, making the employee a criminal in the Criminal Justice component of the U.S. Legal System. Or, imagine a company executive’s children being taken from her in a custody battle. HR managers may face this problem almost any workday. Most employees and managers never consider these possibilities, and yet

legal problems, arrests and related issues can arise at the most unexpected times and in the most unexpected circumstances... and are not limited to major criminals.

Almost every case in court is serious, but individuals tend to believe their personal cases are the “most serious.” This can become a problem for an employee involved in litigation because while their case may have serious consequences, it may not be as serious to the court as the employee thinks. An employee will likely run into this issue the first time in court when waiting all day for the judge to call the employee’s case.

Employee Belief: My case is very serious and will be a priority for the judge.

Reality: A court may deal with more than 25 cases a day,⁶⁷ and other cases may be much more serious.



A number of realizations may arise when an employee goes to court:

- the realization that there are many other serious cases to be heard by the court;
- the realization that the employee's attorney has a number of other equally important clients; and
- the employee's perception that his case is not getting appropriate attention from the judge.

Any one of these realizations can spark an ever-increasing level of frustration and even anger in some cases, and the employee's stress goes beyond the intensity of the issue that thrust the person into the legal system in the first place. The employee realizes — but only after the lawsuit is brought — that the strict rules of the court and the sheer number of cases means the employee's case is not getting, and will not get, the level of attention

the employee believes it should. The employee likely entered the court with the belief that he would simply go to court, tell the judge his story and the magistrate would agree with him.⁶⁸ After the initial appearance in court, the employee begins to see that the underlying financial or legal problem is not being resolved quickly and there will not be a quick resolution.

Part 2 of the Fourth Challenge – Needed Guidance and Help in Navigating the Legal System that is Quite Simply Not Available

Many employees believe there should be customer service representatives or counselors in the legal system that they go to for guidance, to make complaints or get

detailed information to address areas of confusion. As a result, another common employee expectation arises:

Employee Belief: Employees want someone with experience to counsel them through both the legal system and the mental aspects of the legal matter.

Reality: Lawyers are not counselors, and most lawyers are not equipped to handle the emotional aspects of a client's case.

The idea and expectation that lawyers or someone in the court system will explain things and “talk the employee through” the legal matter is met with quite the opposite reality: explanations are virtually non-existent without running up an exorbitant legal bill. One of the most difficult factors for

an employee involved in an upsetting legal dispute to understand is how difficult it can be to work with an attorney, and one of the most misunderstood issues is the inherent problem of client expectations that differ from legal system realities.

a. Clients Need and Expect Counselors

When interviewed about what they needed most from their attorney, most clients expect their attorneys to act like a counselor, a consultant and even a psychologist.⁶⁹ In effect, they want to be taught how the legal system works and what they can expect as their case goes through the litigation

process. Clients often want every detail explained, especially those workers accustomed to their health or dental plan benefits and coverage being explained in great detail. On its face, this seems like a simple expectation.

b. Lawyers are Trained Advocates, Not Counselors

Attorneys are trained to be client advocates in and out of court. An attorney's primary function in litigation is to advocate to the judge and to the other side's attorney on behalf of the client. Overwhelmingly, clients fail to understand this function. This

misunderstanding becomes apparent when their attorneys do not take much time to explain vital details or spend much time talking to clients during their cases, either in or out of court.

Because lawyers are trained advocates and not counselors, clients find that:

- Attorneys may not be adept at counseling.
- Attorneys are not trained to address the psychology of the legal battle from a client's perspective.
- Many attorneys generally do not foster or cultivate that “warm and fuzzy” counseling aura.

- Attorneys new to legal practice are often completely unprepared to assist emotionally distraught clients.
- Traditional law school curricula do not mandate coursework client interview skills or how to involve clients in the representation plan.

The knowledge, values, and skills taught in schools of social work can be useful tools to address many common challenges faced by lawyers.⁷⁰ But most lawyers do not have this training.

A client may become disappointed when the attorney is fact-oriented, disinterested, unemotional or dismissive once court is over for the day. A client typically expects the

attorney to engage in a discussion of the emotional impact of the case, confirm the magnitude of the legal problem and agree it is the worst and most urgent problem in the system. And because of the significant costs associated with lawsuit, a client generally expects the attorney to be absolutely devoted to the legal matter and totally committed to the wrongness of the opposing party.

c. Lack of Attention Breeds Frustration with and Distrust of the Attorney

Unsatisfied expectations tied to the misunderstanding between the role of advocate and the role of psychologist/counselor create a number of debilitating issues for any litigant in the American legal system. Clients begin to have issues with their attorneys and trust deteriorates when attorneys fail to meet clients' expectations that the attorney should be a counselor, legal instructor and advocate.

It's not unusual for an attorney to have no clue that a client is upset with him.⁷¹ In fact, many lawyers report that clients are usually well satisfied with their responses when asked for clarification. Attorneys with high client sensitivity understand that the need for clarification arises from the "legalese" used in initial client contacts — a problem lawyers

and physicians share. If an attorney starts a conversation with terms like "retainer agreements," "prelims," "OSCs," "motions to set aside," summary judgment," "dismissals," "sanctions" or other technical jargon, a client's bewilderment, frustration and anxiety is stirred.

Attorneys can better manage client expectations — the probable timeframe involved for a resolution, fees, the actual workings of the court system — by addressing common concerns up front up front that add to client stress. The problem for most clients is actually finding client-sensitive attorneys on their own. This metric — as important as it is — is almost never depicted in advertisements, online searches or other informational sources about attorney credentials and qualifications.

d. High Customer Service Expectations Can Broaden the Lawyer/Client Rift

High customer service expectations create additional challenges for an employee engaged in the legal system.

Imagine a customer service manager at a consumer bank dealing with an issue for a major bank depositor. The manager would

devote undivided attention to the customer, researching the problem, identifying the customer's needs, locating the source of the issue and offering a resolution to the problem. In a different scenario, imagine that while the manager was handling this customer's problem, the manager shifted

attention to three other bank customers' problems and then gave the first customer an invoice for the full 45 minutes it took to resolve the problem. That depositor is not likely to remain a bank customer.

The second scenario may be exactly what happens to cases in the U.S. Legal System and wreaks havoc with an employee's expectations when an attorney is retained to handle a financial or legal matter. It's easy to see the inherent frustration over divided attention, at best, by an attorney. As the case drags on, the employee may think the lawyer is not devoting enough time to his/her case and not working with or for him, which creates a severe and fundamental stress problem in the case.

The quality of the working attorney-client relationship is vital to the success of the

case. Clients and lawyers that work well together dramatically increase the likelihood of obtaining a favorable result. Conversely, lawyers and clients that display symptoms of a dysfunctional relationship tend to take it out on the case. Increased stress and higher costs aside, changing lawyers mid-stream signals the opposing side that problems exist. While these problems may have absolutely nothing to do with the underlying case, the opposing side may misinterpret the cause of the severed client/attorney relationship, conclude the case is in trouble and make a lower settlement offer.⁷² The problem is that it is not uncommon for a client to feel "stuck" with the attorney they selected, once the litigation proceeds and helpless to change attorneys or to provide solutions to this lack of information.

e. Clients Expect Attorneys to be Devoted Solely to Their Cases

A client may believe that once an attorney is retained, that attorney will work solely for him and make the case a priority, but that is most

often not true since most attorneys have many important cases, all of them serious.

Employee Belief: Employees want someone with experience to counsel them through both the legal system and the mental aspects of the legal matter.

Reality: Lawyers are not counselors, and most lawyers are not equipped to handle the emotional aspects of a client's case.

According to a popular advice-based web site, it's important to seek out an attorney that will make a client's case a priority, noting:

*"Though attorneys are generally very conscientious, they can get busy or have too heavy a caseload. This means that a client's case can get relegated to a lower priority or that the attorney is too busy to respond to your questions. Realistically, an attorney will give you the highest level of attention when you are a prospective client — before you hire the attorney, you are potential new business, which provides the firm with an incentive to return your calls promptly and treat you as though your legal matter is a top priority. Therefore, if the firm is slow to return your calls at this stage, you can expect that your questions will be even less of a priority once you retain the firm."*⁷³

An employee complaint about his lawyer often stems from this client priority concept. Lawyers have many clients, and competing client cases and interests often cause frustration and dissatisfaction for the litigant. Most clients outlay thousands of dollars for the attorney's services. As a result, most clients expect their case to be the "only one" the lawyer handles. Indeed, there can be much surprise when their lawyer juggles three or four clients in the same courtroom.

Without some mechanism to help an employee understand the legal system and how attorneys work, an employee may see

his attorney as seriously inattentive. The attorney's failure to meet expectations can lead to upset, particularly for an employee engaged with the legal system for the first time. This frustration can cause an employee to take actions that lead to more frustration. For example, the employee may call the attorney's office more frequently in hopes of getting answers, make complaints or demand more attention, thereby creating more billable time that runs up the employee's bill.

One attorney blog site summed it up this way:

"The unfortunate state of things is that many, many lawyers think of themselves as technicians – what they feel they're MEANT to do has more to do with understanding the law or analyzing a problem than with serving a client. Some of that is the result of the way lawyers are trained. Lawyers are trained to research precedent and analyze issues in the context of previous decisions. Clients are rarely discussed in law school. There is little, if any, discussion about all of the myriad aspects of serving clients that don't involve analyzing issues or making arguments. It isn't surprising that the client service aspect of the profession is often overlooked or ignored, or just not valued by the time lawyers begin practicing."⁴

The author continues by delving into the customer service problem, noting:

"Many lawyers just don't see how client service (or lack of it) affects their bottom line — either the nature of their practice doesn't lend itself to repeat clients or they don't realize that clients aren't coming back (and aren't referring others) because they didn't receive excellent client service. Many clients won't leave during the course of an engagement because it's just too expensive to change lawyers in the middle, and there's an element of the 'devil you know vs. the devil you don't know.' In those cases, the lawyer doesn't realize she has 'lost' a client because the engagement gets completed despite the client's dissatisfaction. Some clients that leave because of poor client service may give a different reason for leaving — it may sound like they're complaining about fees, but their real complaint may be that they didn't feel they got value for their money because the service wasn't up to par. Since there's often no easy way for a lawyer to know that a former client had another legal matter and didn't return to the firm, or that a current or former client didn't recommend the firm to a friend with a legal problem, this is, to some degree, an 'invisible' problem."⁵

f. Many Employees Expect to Just Tell Their Story and Win

Another common example of an employee feeling powerless is what happens in court.

Once in court, many employees want to tell their story immediately and successfully to

the judge and have an expeditious resolution in his favor.

This unrealistic scenario creates an impossible expectation because the legal system is structured to enable both parties' lawyers to advocate. Neither party can talk to anyone in the process but his own lawyer — not to the judge, the opponent in the case or the opponent's lawyer. Communication is restricted to one's own attorney. This is why one of the first things a litigant will hear from his lawyer is, "Don't say a word, and let me do the talking." And this advocacy system has strict rules and procedures that determine the times and forums by which employees or their advocates can address the court.

Not being able to present the merits of his case quickly wears on an employee that may have come into the courtroom with the expectation of going home victoriously. Dissatisfaction and impatience increase as costs and work time off soar, and an employee becomes incensed at both the underlying problem and the lack of a resolution.

When an employee with legal problems is thrust into a system that (i) appears to have

no immediate solutions, (ii) has a number of serious hurdles, (iii) involves high out-of-pocket costs, he can become discouraged and upset. And when the employee receives attorney bills with charges for seemingly endless and unnecessary delays, the feelings of frustration switch to deep feelings of stress, anxiety, helplessness and anger.

One of the most revealing examples — a situation employees face more than any other legal problem — is divorce litigation, especially when child custody challenges are involved. Spouses are abusive, inconsiderate and very mean when divorce is an issue. Much of this litigation can be contentious, vindictive, and upsetting to parties at each other's throats. Often one spouse has the expectation that one's spouse is the "clear bad actor" and that everyone in the legal proceeding should "just be able to see this" and grant the employee with this expectation the relief or resolution they want. When one's attorney or the judge may not agree with the employee, they begin to feel alienated and angry. The feeling that one's attorney is not there to get them quick help can create a serious rift with the employee and their attorney. These feelings can make employees feel there is no help anywhere.

Part 3 of the Fourth Challenge – The Shocking Revelation Once Litigation Starts that the Entire American Legal System is Set up to Almost Force Parties to Compromise without Going to Trial and Winning Their Cases.

One of the most shocking — and ultimately frustrating — realizations for an employee is that the legal system is specifically designed

to facilitate compromise and lawsuit settlements.

Employee Belief: I am on the right side of justice, and the U.S. Legal System will help me win my case. The other party, which is in the wrong, will pay fast.

Reality: Regardless of being right or wrong, almost all legal cases must settle, and the parties must compromise for the system to work, *even when one of the parties is clearly in the right and deserves compensation.*

One of the foundational premises of the legal system is that *most of the cases in the system must settle or drop out before a trial*

verdict (or a court win) is ever reached. This is difficult for an employee to comprehend for several reasons.

- Most employees have seen the court system operating through the lens of a major televised court trial, whether fictitious or real.
- The legal system is designed to be adversarial, pitting one party against the other with a winner and loser, and Americans want to be winners.

This concept underlies our entire jurisprudence system, but because of the win-lose adversarial nature of lawsuits, particularly those sensationalized on TV and in the media, the concept of settlement or compromise is not realized until an employee is well into the litigation and it is too late. A fundamental understanding of this

compromise concept could produce a more educated employee-base and employees going through the legal system could be better prepared for the steps involved. Without this understanding, a few serious disconnects can occur that will inevitably cause upset, anxiety and stress.

a. Sensational Trials do not Reflect the Reality of Compromise

The entire legal system is created to effectuate a compromise in almost every legal battle. In fact, many lawyers argue that compromise is actually a cornerstone requirement in most lawsuits.

A whopping 97% of all lawsuits settle before going to trial, leaving only 3% of the cases going through the trial phase.

“Nearly 1.4 million lawsuits are filed in California every year. While some of these lawsuits have merit, many do not, and these lawsuits are costing each and every one of us.”⁷⁶

California Citizens Against Lawsuit Abuse

Sensational TV trials, where the focus is on the fight between the parties during a trial, rarely include compromise as either side’s goal, and there is a clear winner and loser in the eyes of the jury and the viewing public. For example, many people were appalled by the verdict in the

the highly publicized television trial of defendant O. J. Simpson, who was also acquitted of murder. In that case, there was no compromise evident to television viewers, and a clear winner emerged. It’s important for an employee to understand that these TV trials in which the parties did not compromise and the cases went through a jury trial comprise a very small minority of the cases in the American courts compared to the number of cases that settle.

Casey Anthony case in which the jury, despite seemingly overwhelming evidence, acquitted the defendant in the death of her two-year old. And, many clearly remember

Employee Belief: I was wronged and I should not have to even think about compromise. I want my attorney to fight hard, and I’m going to win.

Reality: Compromise in every lawsuit is top of mind for almost every judge, and after the case begins, most lawyers engage the thought process that “I’ll get you the best compromise possible.”

Are lawyers and judges misleading participants?

- No. Some cases do go to trial, but it is impossible to predict which cases will.
- No. Every citizen has a fundamental right in our country to have their day in court.

Getting a case to the end or “winner” status causes a great deal of stress for employees because of the time and money involved throughout the normal litigation process. Litigants may not feel the stress at the beginning of the judicial process, but stress intensifies as frustrating procedures and delays add up to wasted time and financial strain.

From the start, an employee’s expectations about the legal dispute focuses on winning and finding a lawyer that will lead to victory. An employee may have the impression or be told by the lawyer that the employee has a great chance of winning the case and that the lawyer possess the expertise to get the best result.

Attorneys are expensive, the legal process is complicated and the courts are inefficient, which means the cost of seeing a case to conclusion is extremely high in time, money and emotions. To reduce risk in a system that seldom works quickly, many litigants are forced to compromise and settle to limit the

risks to their retirement or savings funds.⁷⁷ As a result, most employees mired in legal disputes do not realize there is fundamental pressure surrounding every case in the court system: the need for cases to be resolved early and to seriously encourage parties, with the stimuli of endless time and mounting costs, to settle cases before they potentially reach the Supreme Court.

The pressure to compromise is not apparent or expected at the outset of litigation, and an employee does not realize the pressure to compromise until after the case starts. An employee that believes the attorney will fight harder than ever soon sees the lawyer compromising early on. Because of the stressful nature of the underlying dispute — an ugly divorce, a nasty child custody battle, a harassing collection agency seeking money the employee doesn’t have or a bitter sibling dispute over the disposition of a deceased parent’s estate — any suggestion of compromise increases the employees stress level, often to the point of anger or frustration.

INNOVATION CHECKS

- ✓ Adding to the pressure for cases to compromise or settle is that lawsuits take a long time, years in some cases, to resolve.
- ✓ There are significant increases in the number of new lawsuits filed each year.
- ✓ The high rate of foreclosures brought on by the mortgage bust drove many people into bankruptcy and legal complications have accompanied their financial crises.
- ✓ If every new case in America’s courts resulted in the annihilation of one party or was taken to the Supreme Court [remembering that the Supreme Court hears approximately 200 cases per year], the judicial system would be hopelessly backlogged and completely unable to function.

Both frivolous lawsuits and serious matters — trusts, wills, other probate issues — are getting buried in the morass of the average American courtroom. A California publication lamented that courts in Los Angeles and Orange Counties in 2010 were seeing probate cases once heard within a “reasonable 30 to 45 day timeframe” from the

filing date weren’t getting heard until 90 or 100 days from filing.⁷⁸

Regardless of the state, as a case drags out, costs climb, and the expectation of getting paid quickly goes unfulfilled, frustration builds and stress mounts.

Employee Belief: The system is designed to be fair. I have a strong case, and I will be not be pressured during litigation to compromise until I get the result I want.

Reality: Courts force cases to settlement often by virtue of the inherent nature of the legal system and not necessarily intentionally by using the delays required by complicated and little-understood legal procedures. As such, procedural delays become a roadblock to continued litigation, and parties are forced to settle without of winners or losers.

b. Procedural / System Delays are Rampant

Notwithstanding the continuance and delay issues — voluntary procedural delays — there are also structural hurdles —

mandatory procedural and statutory time limits — that can prohibit a quick resolution.

Employee Belief: The court system has very specific rules and procedures designed to hurry cases like mine along in an efficient and judicious manner.

Reality: Instead of adhering to these rules, procedures and deadlines, courts and lawyers routinely manipulate the system so that hurry up rules are ignored and court proceedings are rescheduled. Continuances require all parties to return to court on a future date for another postponed court proceeding. The employee must take off another day from work and return to court at a later date.

Postponements are often created for the convenience of the court or the lawyers, all of which may know they are causing inconvenience for the other parties. Unfortunately, legal professionals have

become so accustomed to postponements and continuances that they are either unconcerned about or desensitized to them and don’t bother to consult with their clients or the other parties.

Employee Belief: Once in court, my case proceed quickly as a priority, and I will be back to work soon with this lawsuit behind me once and for all.

Reality: Once in court, the priority is the court’s business and timetable, not the employee’s job or their company’s business.

State and federal courts impose procedural steps to help litigants and make the system fair for both sides, but these steps create delays that are costly to participants. The

parties, once in the litigation, make modifications to the application of these rules to drag out the litigation longer than the rules anticipate. And, once in court, the priority is

the court's business and timetable, not the employee's job or their company's business.

As an example, let's examine the required steps in a typical criminal defense case. Although each state may have slightly different rules and procedures, if courts adhere to the constitutional and statutory

rules in most states, the person accused of a crime would be entitled to a speedy trial, often constitutionally defined or interpreted as 60 days from the time of arraignment. This mandate ensures that a wrongly accused defendant is not sitting in jail for lengthy periods without the case coming to a resolution.

Question Why do most criminal cases take far longer than 60 days from arraignment, even when the defendant is in jail?

Answer There are five typical steps in a felony case, detailed below, and most cases do not follow the statutory time limits in the short periods specified. Each side may request continuances to delay for reasons usually associated with additional preparation or extra time to find witnesses or locate other evidence. In some instances, criminal defense attorneys continue cases or request continuances to enable the defendant to raise additional legal fees. Additionally, the court often requires continuances, with the defendant's ostensible permission, to enable the District Attorney and defense to talk with each other under deadlines, help reach a compromise based on evidence, witnesses or a potential criminal charge that encourages the defendant to plea bargain [settle before trial] and, thus, resolve the case without trial and court time.

The five steps associated with a felony case include:

1. **Arraignment.** The defendant is usually brought to court within 48 hours of arrest to plead guilty or not guilty to the charges.
2. **Preliminary hearing.** The prosecution puts on a minor display of the evidence against the defendant to show the judge there is a genuine case against the defendant. In most cases, the defendant does not have much of a role at this phase.
3. **Arraignment again in a higher court.** Assuming the judge feels there is at least some evidence against the defendant, the accused must again enter a plea of guilty or not guilty in a new court, which will be the new trial court if the case isn't disposed of through a plea agreement.
4. **The exchange of discovery.** The parties exchange the information and evidence they have against the defendant, although some jurisdictions do not require the defendant to turn over the evidence it will use at trial to prove the defendant's innocence.
5. **Trial.** The case proceeds with a jury that in most instances will either acquit or convict the defendant.

Extraordinary stress for employee-litigants can result from the delays that arise during the five steps.

- The potential sentence and jail time hanging over the defendant can be frightening. Many prosecutors ask for lengthy sentences and threaten them if a case goes to trial. However, if the defendant settles, the sentence may be reduced.
- The defendant must sweat the fear of losing.
- In both criminal and civil cases, many parties face the prospect of lengthy court battles, expensive lawyers and the distinct possibility of paying money he may not have. All of this results in extraordinary amounts of stress in many employee-litigants.

While judges and lawyers are concerned with court dockets and schedules that work best for them, there is little focus on the practical impact on an employee that must simultaneously be productive at work and grappling with a legal proceeding. Thousands of employees report that when involved in court actions — criminal or civil — delays are among the greatest causes of frustration. A worker takes a costly day off and appears in court hoping for resolution only to be told, “Nothing will happen today. Come back in three weeks.” Such

- Attorney fees are mounting.
- Leave time from work is being exhausted, work tasks are piling up and maintaining productivity on the job is a challenging,
- The other party in the case appears to be the only beneficiary from the delays.

As frustration builds, so does the stress that becomes a long-term problem — a problem that ultimately produces a devastating increase in anger, frustration and stress costly to the employee and his work productivity. As an example, an employee may be in court for a prolonged divorce proceeding with a spouse not entitled to be in the house they once owned jointly, or delayed modifications of child visitation orders or an alcoholic spouse keeping custody of the children. The employee

continuances are a way of life for legal professionals. As discussed previously, delays provide time for parties to be forced, maneuvered or willingly led to compromise and settle. But to employees expecting quick and fair resolution to their legal or financial woes, the delays seem unfair.

The frustration factor increases exponentially with each slowdown, delay and failure to produce results for these reasons and others:

cannot help their lack of concentration and distraction in their workplace and this condition and their stress is directly related to this legal problem.

All of these court delays actually push an employee to compromise and settle, even when it may prove costly to them. The employee doesn’t want to risk getting fired for absenteeism, so after missing days and even weeks of work, compromise instead of winning becomes the goal.

INNOVATION CHECK

- ✓ The willingness to “surrender” is often driven by the serious stress, frustration and upset that troubles an employee that believes his case should have been won months or years ago.

Action Item: It is critical for HR to understand all aspects of these challenges. To better understand these divergent employee expectations vs. legal system realities, HR



managers who want to help their employees and increase work productivity when a lawsuit arises, must also understand the effects of lawsuits.

V. Given Employees' Issues with and Misunderstandings of the Legal System and Processes How Can HR Managers Better Understand the Workplace Impact?

A. HR Managers often catch glimpses of the high levels of stress employees face when these usually private legal matters spill over into the workplace.

HR departments may often not fully understand the breadth of these stress-related legal problems employees face when unexpectedly cast into the U.S. Legal System, nor is there always a complete recognition about how an employee's legal problems create the stress that contributes to work problems. Repeated court continuances alone, detailed above, clearly demonstrate that an employee mired in the legal system will likely miss hours and even days of work. As we have seen, it is not uncommon for employees to take off an entire day, sit in a courtroom for hours, hear a judge call case after case, approach the end of the court day and be told the employee's case has been continued without

explanation. That announcement from the bench takes less than five minutes and brings no resolution, but it costs the employee an entire workday and preparation time for the court appearance.

One study found that slightly more than one quarter of employees who hired their own attorney missed anywhere from a few days to a week of work. Many cases don't even involve the employee directly, as was the situation of a man who told of having to miss work because of attending court hearings related to his son's legal issues. The process can become as unwieldy for individuals who prefer to hire their own attorney rather than ignore the problem.⁷⁹

The problem of this stress for Human Resource Managers is that it has two components:

1. the increased stress levels that employees have when they suffer through financial, debt, credit or legal problems; and
2. the hurdles within the legal system that directly affect employees and exponentially increase the already-high stress levels that can lead to frustration, anxiety, anger and upset, sometimes requiring physical or mental treatment. And these issues intensify the longer the case drags out.

Now that we have seen how legal problems, the legal system and working with attorneys

can cause stress for employees, we have additional questions for HR.

- What if employees are bringing into the workplace the effects of stress from a larger number of legal and financial problems than HR appreciates?
- What if HR is missing the breadth of employee legal problems and the stresses employees are under?
- What if the loss of productivity and the causes of many accidents and injuries on the job are more related to legal issues than is generally understood?
- What if employee legal problems are unknowingly driving up healthcare costs?
- What if the U.S. Legal System is actually helping to decrease employee productivity?
- Has stress level and its impact on the workplace ever been measured?

Relative to personal employee legal problems, there may be more to employee absence — lack of productivity, accidents and injuries, increased prescription drug and healthcare costs — than is obvious to HR managers. Given the private nature of financial and legal problems, there is a

possibility in many instances that an employee may not reveal the true nature of his most serious problems. As such, there may be a much more serious need for legal and financial help for employee populations than is currently understood.

INNOVATION CHECK

- ✓ By examining the consequences in the workplace of employee legal issues, it may be both necessary and possible for HR to institute measures and programs to help employees manage the causes of stress with tremendous upside: a decrease in accidents, an increase in productivity and a decrease in healthcare usage that is costly to the employer – and each may be tightly measured.

B. HR Managers are beginning to appreciate the seriousness of stress employee's experience.

It is critical to understand the causal connection between employee legal and financial problems and the stresses caused when an employee does not have resources or help to handle and solve these difficulties.

Let's first start with the serious levels of stress being suffered by employees by looking at the results of recent general stress-related studies.

Journal of Occupational and Environmental Medicine⁸⁰

- Health care expenditures are nearly 50% greater for workers who report high levels of stress.
- 23% of women executives and professionals and 19 percent of their male peers say they feel super-stressed.

Foundation for Integrated Research In Mental Health, 2007

- 62% of Americans say work has a significant impact on stress levels.

American Institute of Stress, National Center on Addiction and Substance Abuse, February 2007

- U.S. companies lose \$200-\$300 billion a year due to absenteeism, tardiness, burnout, decreased productivity, workers' compensation claims, increased employee turnover and medical insurance costs resulting from employee work-related stress.

National Safety Council, Priority Magazine, January-February 2007

- Approximately one-half of Americans say stress has a negative impact on both their personal and professional lives.
- 31% of employed adults have difficulty managing work and family responsibilities.
- 35% cite job stress as interfering with their family or personal time.

American Psychological Association Study, 2007

- Issues stemming from workplace stress take up at least 20% of a company's payroll and more than \$150 billion in U.S. productivity each year.

American Institute of Stress, February 2007

- One in three employees reports feeling chronically overworked.

Human Resources Workplace Stress Survey, 2007

- About one-third of workers report high levels of stress, and high levels of stress are associated with substantial increases in health service utilization.

The National Institute for Occupational Safety and Health (NIOSH), November 2007

- Chronic stress — stress experienced when the demands of life exceed the ability to cope — boosts the risk of developing ailments ranging from the common cold and gum disease, to obesity and heart disease.
- The costs per year linked to stress are:
 - \$300 for over-the-counter drugs (e.g., pain relievers, decongestants);
 - \$5,600 for physician visits and other out-of-pocket healthcare costs;
 - \$375 for high life insurance premiums; and
 - lost productivity: workers with severe stress miss 23 days of work a year.

“Workplace stress is rife in 70 percent of organizations; the fact that companies are not viewing stress from a scientific, strategic, preventive perspective is extremely worrying.”⁶¹

Families and Work Institute Study

Once dragged into a lawsuit, the unexpected court delays, hurdles and costly attorney fees begin to cause stress for employees. HR managers know that employee stress from all sources is a leading cause of unscheduled absenteeism, costly presenteeism, high turnover, accidents and errors. Many expert studies show that approximately 60% of workers' compensation awards and 40% of job turnover are due to employee stress. But exactly what are the causes of employee stress, where does it come from and is any of it attributable to employee legal problems?

The costs to the employer each year in increased healthcare, emotional distress treatment and prescription drug costs are skyrocketing and mandate a new approach to managing stress and the toll it takes on marriages and children. When we combine the high degrees of stress employees are suffering today with their increasing number of employee legal problems, it is possible to conclude that stress from legal problems may be partly attributable to the overall costs of employee stress.

VI. How Much Employee Stress from Legal and Financial Issues is Brought Into the Workplace?

Is There a Way to Measure These Employee Stress Levels If There has been No Long-Term Study of this Issue?

About This Study

The purpose of this Study is to draw conclusions about employee stress and its relationship to personal employee legal problems. Since there is not yet a definitive study on this specific issue, we can examine this correlation by looking first at the studies that have been conducted related to all employee stress and the identifiable costs of this stress.

Job Stress Defined

The National Institute for Occupational Safety and Health (NIOSH) defines job stress as “the harmful physical and emotional responses that occur when job requirements do not match the capabilities, resources, or needs of the employee.”

The General Causes of Stress - Overview

Using the NIOSH definition, employees can be placed under a great deal of stress by

everyday life situations. This includes family problems, bad financial planning, debt collection and identity theft, among others. The employee needs time — a limited resource — to deal with a life situation but is unable to do so because his job requires that time. The solution generally requires legal services, which causes the employee to spend even more time away from work.

A. The Cost of Stress

The cost of stress is staggering. The American Institute of Stress (AIS) puts it at \$300 billion annually, which includes “accidents, absenteeism, employee turnover, diminished productivity, direct medical, legal, and insurance costs, workers’ compensation awards, as well as tort and FELA [Federal Employers’ Liability Act] judgments.”

correlated with heart disease and many other medical problems, and reducing stress can boost one’s immune system and help control diabetes. According to Newsweek, many experts find that 60-90% of all doctor visits are stress-related. The medical costs are indeed enormous.⁸³

Actual costs per employee run about \$798 per year, according to CCH, Inc. in its 2002 CCH Unscheduled Absence Survey.⁸² In fact, when the costs of stress-related illnesses are factored in, the cost of stress may be much higher than \$300 billion. Newsweek devoted considerable space to the impact of emotional stress in its cover feature “The New Sciences of Mind and Body” (September 27, 2004). The report shows much evidence that stress is

The Journal of Occupational and Environmental Medicine reports that health care expenditures are nearly 50% greater for workers reporting high levels of stress. The report addresses the toll of stress, anxiety, nervousness and fatigue on the physical health of an employee — hunched backs over computers, knotted shoulders worsening after meetings and long hours without breaks. More severe symptoms such as depression, anxiety and fatigue set in if these conditions persist. In light of reports such as this, it is surprising more companies

aren't offering a greater range of programs to reduce stress, reduce healthcare costs and improve health and productivity.⁸⁴

There has been some research on the subject of employee stress and increased healthcare costs. A number of studies over

that last 15 years detail explicitly the correlation between worker stress, emotional distress and depression, and the increased healthcare costs of treatment and prescription drugs. Following are a few conclusions that establish this connection.

- Companies with corporate health promotion programs have realized a 28% reduction in sick leave, a 26% reduction in adjunctive healthcare costs and a 30% reduction in disability and workers' compensation costs.

Health Affairs, Volume 21, No. 2, March 2002

- Job stress costs employers more than \$200 billion each year in absenteeism, tardiness, burnout, lower productivity, high turnover, workers' compensation and medical insurance costs.

National Safety Council

- One dollar invested in work place wellness will have a \$3 savings of benefits.

University of Michigan Research Center (HMRC)

- An estimated 60% of all work absenteeism is caused by stress.

C. Cooper & R. Payne, eds.
Causes, Coping and Consequences of Stress at Work

- Depression, a common problem among workers, costs the United States \$44 billion per year in lost productivity.

National Foundation of Brain Research

- A new study of more than 46,000 employees at 6 large companies found that costs linked to serious, persistent stress account for about 8% of the total health care expenditures of those companies: about \$24 billion annually.

American Journal of Health

- The California Workers' Compensation Institute determined that job stress claims increased 700% from 1977 to 1988.

M. Lehmer et al.
Journal of Occupational Environmental Medicine

- A new study on stress in the workplace found that 62% of the people surveyed experience what they call "a great deal of stress" in the workplace," up 15% from the previous year.

Aventis Pharm

- In a recent three-year analysis of more than 46,000 workers from six major U.S. companies, depression and unmanaged stress emerged as the top two most costly risk factors in terms of medical expenditures, increasing health care

costs by two to seven times as much as physical risk factors such as smoking, obesity and poor exercise habits.

R. Goetzel et al.

Journal of Occupational Environmental Medicine

All of these studies and figures are found in a compilation of these statistics demonstrating the connection between

employee stress, emotional distress and depression and the increased healthcare costs associated with treating them.⁸⁵

B. Healthcare Costs Related to Employee Stress

Additionally, there are a number of studies that detail different aspects of the devastating effects of employee stress either

from the workplace or brought into the workplace. One report⁸⁶ detailing the scope of employee stress found:

- 80% of workers feel stress on the job, nearly half say they need help in learning how to manage stress and 42% say their coworkers need such help.
- 14% of respondents have felt like striking a coworker in the past year but didn't.
- 10% are concerned about an individual at work they fear could become violent.
- 25% have felt like screaming or shouting because of job stress.
- 9% are aware of an assault or violent act in their workplace.
- 18% have experienced some sort of threat or verbal intimidation in the past year.

Other sources report similar alarming statistics.

- Workplace stress is rife in 70% of organizations. That companies are not viewing stress from a scientific, strategic, preventive perspective is extremely worrying.

Human Resources Workplace Stress Survey 2007

- About one-third of workers report high levels of stress, and high levels of stress are associated with substantial increases in health service utilization. The National Institute for Occupational Safety and Health (NIOSH), November 2007
- Chronic stress, the kind you experience when the demands of life exceed your ability to cope, boosts the risk of developing ailments ranging from the common cold and gum disease to obesity and heart disease.
- The costs per year of stress are:
 - \$300 for over-the-counter drugs (e.g., pain relievers, decongestants)
 - \$5,600 for physician visits and other out-of-pocket healthcare costs
 - \$375 for high life insurance premiums
 - Lost productivity: Workers with severe stress miss 23 days of work a year.

Money Magazine, December 2007

- Cumulative exposure to job strain resulted in significant increases in systolic blood pressure among male white-collar workers.

- 80% of executives and managers are stressed, one-third of which are highly stressed.
American Journal of Public Health, April 2006
- Workers who clocked more than 51 hours at the office each week were 29% more likely to have high blood pressure than those who worked 39 hours or less.
Hypertension Journal, June 2006
- Nearly all past research linking long work hours and high blood pressure has been done among Asian workers, Dr. Haiou Yang of the University of California in Irvine and colleagues note in their report in the journal *Hypertension*. Large companies have seen per-worker health care costs rise by more than 80% since 2000.
Hewitt Associates, as reported in *Atlanta Journal Constitution*, June 2005
- Stress costs American businesses about \$330 billion every year. This total includes accidents, absenteeism, employee turnover and diminished productivity, as well as direct medical, legal, and insurance costs to business owners.
American Institute of Stress, June 2005
- Research shows that a stressful work environment can affect the amount of an employer's budget allocated to employee healthcare contributions.
- Healthcare expenditures are nearly 50% greater for workers who report high levels of stress.
Journal of Occupational and Environmental Medicine, June 2005
- Stress-related costs include absenteeism, turnover, health benefits, workers' compensation claims, tort claims and presenteeism, known as on-the-job productivity losses.
CIGNA Group Insurance, June 2005
- Studies show that stressful working conditions are associated with increased absenteeism, tardiness and intentions by workers to quit their jobs, all of which have a negative effect on the bottom -line objective of a thriving workplace.
(NIOSH) Psychologist4Therapy.Com, June 2005
- An estimated one million workers are absent every day due to stress. This unanticipated absenteeism is estimated to cost American companies \$602.00 per worker per year.
National Institute for Occupational Safety and Health (NIOSH), April 2005
- Healthcare expenditures are 50% greater for workers reporting high levels of stress.
Journal of Occupational and Environmental Medicine, March 2005

- Three-fourths of employees believe the worker has more on-the-job-stress than a generation ago, and work is the number one source of stress in their lives.
Princeton Survey Research Association, August 2004
- Stress surfaces in morale, which has a tremendous impact on how hard employees work. They work more but less effectively.
Carol Kauffman, psychologist, Harvard Medical School, July 2004
- Workers who must take time off from work because of stress, anxiety or a related disorder will be off the job for about 20 days.
Bureau of Labor Statistics, May 2004
- Chicago-based employee assistance provider ComPsych experienced a 23% increase in crisis- and stress-counseling requests from clients in the first quarter.
USA Today, July 2003
- Nearly 35% of workers say they've seen an increase in anxiety and stress-related physical ailments in their workplace in the last year. 27% report a rise in emotional problems such as insomnia and depression.
The Marlin Co., CT-based Workplace Communications Firm, July 2003
- More than 2000 workers found ongoing work stress and long hours had a negative effect on physical and mental health.
University of North Iowa Survey, July 2003
- One-fourth of employees view their job as the primary stressor in life and, 40% report their job is very or extremely stressful.
Northwestern National Life, 2004
- Problems at work are more strongly associated with health complaints than are any other life stressor...more so than even financial or family problems.
St. Paul Fire and Marine Insurance Co., 2004
- 26% of workers are often or very often burned out or stressed out by their work.
Families and Work Institute, 2003

Clearly, there is a correlation between stress and increasing healthcare and prescription drug costs. Is there a way to determine if there is a portion of this problem directly

related to employees' personal legal issues? If so, is there a way to determine how large this problem is in relation to healthcare costs and productivity issues?

C. To determine if there is a correlation, we need to ask what the employee experiences when legal and financial problems strike.

We have seen that employees experience abject fear when a legal problem or lawsuit

arises, particularly when the lawsuit appears unexpectedly and without warning.

Cases that create this paralyzing fear are found in every court in America, including:

- cases in which ex-spouses, divorced for many years, renew court battles over child support payments because they need more money for child-related expenses;
- repossessions of cars and trucks in record numbers that cripple employees from a transportation perspective and a real fear of job termination;
- foreclosures and underwater mortgages with the threat of “being out on the streets” that wreak havoc on employees’ lives; and
- wage garnishments from collection lawsuits that employees cannot afford to fight and that eat up personal monthly income, and negatively impact credit scores and prevent employees from obtaining second mortgages or refinancing.

These court filings happen in thousands of courtrooms every day, but the only warning an employee often has is when he is served with a Summons and Complaint/Petition, leaving him with only 20 to 30 days to find a lawyer, raise \$5,000 to \$10,000 or more in

up-front retainer fees and get a response on file in court. Default, as many employees have found, can be a crushing blow to paychecks, savings, bank accounts and even retirement accounts.

INNOVATION CHECK

- ✓ Employees are suffering verifiably high levels of stress from financial and legal problems in today’s America.

One study looked at all employee groups across all ages to determine the impact of financial troubles on employees.

“Stress is associated with exacerbating and driving health problems, and financial stress is a prime cause of personal stress. The recession has resulted in widespread financial insecurity across all employee age groups. In fact, there is a virtual ‘epidemic’ of financial ‘illness.’”⁸⁷

10th Annual Study of Employee Benefits Study

“As much as employers have been focused on traditional health and wellness, there is compelling evidence that ‘financial illness’ also contributes to health care costs, as well as to reduced productivity.”⁸⁸

10th Annual Study of Employee Benefits Study

D. What other factors create pressure on employees who are handling legal problems? How do these seemingly private personal employee legal problems impact the workplace?

The stress, high at first while trying to figure out who can help solve the legal problem and how to pay for the initial fees, increases to

greater anxiety levels once the lawsuit or legal process commences. An employee feels increased pressure from all angles.

- The fear of legal costs often becomes an unbearable fear, particularly with the unanswerable question of how long the lawsuit will drag on.

- Time off becomes a major problem for the employee that must miss work repeatedly for court dates, discovery discussions and ongoing court hearing postponements. Absenteeism that began as time off to locate an attorney is replaced by a new form of absenteeism: time off for mandatory court hearings.
- Presenteeism is rampant. An employee, while present, can be bogged down mentally by the magnitude of the legal problem and the potential destruction to his current lifestyle if the case is lost.
- Anger is likely bubbling to the surface, whether anger at the plaintiff bringing the lawsuit or anger at being forced to file a lawsuit. In both scenarios, this anger negatively affects the employee's interaction with fellow employees and managers.
- Retirement and savings accounts are whittling away.
- Collection calls from creditors occur repeatedly at work, interrupting concentration, the course of business and an employee's positive outlook.
- Fear of missing a legal deadline increases stress, anxiety and outright fear.
- Credit cards are maxed out and the inability to meet regular living expenses becomes a problem.
- If the issue is related to a vehicle and if the vehicle is rendered unusable from DUI/DWI, license suspension, an accident or botched mechanical repairs, absenteeism increases.

INNOVATION CHECK

- ✓ American employees are staring down legal and financial problems and being forced into the legal system in record numbers.
- ✓ The American consumer now faces more than the 70% chance of being involved in the legal system that was forecast in the American Bar Association study 10 years ago.

VII. We Have Seen Some Evidence of the Relationship Between Legal Problems, Stress and the Work Effects.

Is There a Correlation Between Employee Stress from Legal and Financial Problems and the Effects on Employee Productivity?

The increase in the number of employees and consumers in the United States facing legal and financial problems, noted above, might lead you to believe that access to lawyers and legal advice is more prevalent than ever. There is also increased lawyer

advertising, information and awareness. However, reality indicates that more Americans than ever feel disconnected (i) from the legal system and (ii) from access to legal advice, which most consider inaccessible and too expensive.

INNOVATION CHECK

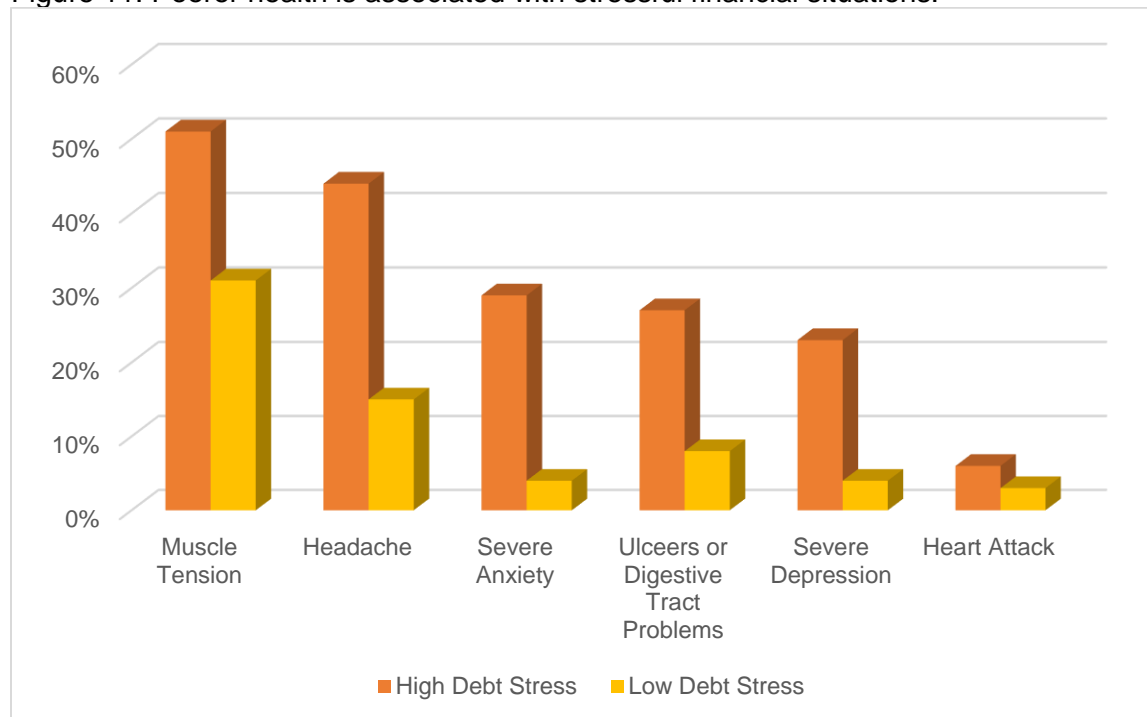
- ✓ Most employees feel there is less access to lawyers at a time when the need for legal help is literally strangling employees across corporate America.

More than 30% of stress effects could be related to legal and financial issues, according to a recent study. The study finds that “absenteeism and presenteeism can take a toll on productivity, with 78% of employers saying that their employees are

less productive at work when they [employees] are worried about personal financial issues, and 58% of employers in the study reported that financial stress contributes to employee absences at our company.”⁸⁹

Figure 11 presented again on the following page shows the impact of employee stress from debt.

Figure 11: Poorer health is associated with stressful financial situations.



Stress from debt is associated with a range of health problems that impact cost and productivity.

Employers agree that financial stress, in addition to impacting employee health, also affects productivity. Fifty-eight percent say that financial ‘illness’ contributes to employee absences at their companies, and an amazing 78% also agree that worry about personal financial problems while at work

can distract employees to the point that they are less productive. In fact, according to the Metlife Study, 27% of employees admit they took off unplanned time and/or were distracted at work dealing with personal financial issues. This was especially true for younger workers.

“I see it every day. We’ve had so many employees whose homes have gone into foreclosure, their spouse was laid off, they’re sick. We’re seeing a lot of absenteeism surrounding those issues...”⁹⁰

Understanding this in terms of the effects on the workplace can open up a new line of thinking for employers seeking solutions for rising healthcare costs. It may be that an entirely new causational framework might be creating upward pressure on healthcare costs.

Figure 6 on page 18 of this study demonstrates that some of the causes of unhealthy employee stress factors may now

be related to the work-related detrimental effects — turnover, litigation, employee dissatisfaction, lack of commitment, absenteeism, depression and increased accidents — and may lead inexorably to a lack of productivity, increased injury and accident costs for the employer. Indeed, earlier studies cited show stress in the workplace contributes to about 60% of workplace accidents. If some of this stress is

caused by the financial and legal circumstances an employee faces could this be costing the employer.⁹¹

A. Can we actually calculate the cost to the company of the amount of stress directly related to employee legal and financial problems?

Using the earlier stress studies measuring all workplace stress, let's see if we can determine how much of this workplace stress related to external personal legal and financial problems employees are facing is causing real Company expenditures for

absenteeism, healthcare visits and costs, and prescription drug costs. To do this, we will look at some of the actual effects of employee stress brought into the workplace related to financial and legal problems.

INNOVATION CHECK

- ✓ It is estimated that 22 hours of employee time are wasted within the first 72 hours of a personal legal problem that arises when the employee first receives notice of the problem at the workplace.⁹² This includes the time the employee first spends telling close colleagues about the problem, reliving the issue with co-workers and soliciting their help in rating, selecting and locating a lawyer.

How can an average of 22 hours be wasted in the first 3-4 days? Co-workers often waste hours discussing an employee's legal problem and providing their own input on the chances of victory or recommending lawyers. In the initial stage of a lawsuit, the employee spends time at work calling attorneys to identify several that may be able to help and scheduling appointments with those that seem qualified.

hours of missed work time once the list of attorneys is narrowed and the employee has made a few calls to attorneys. Nor is there any time factored into this part of the equation where the employee is either waiting days for callback from attorneys that "promised to call back in a few hours" or the time an employee takes off to interview prospective lawyers, which add more wasted time and lost productivity. We analyze these separately below.

This calculation for wasted employee time does not include the increasing number of

INNOVATION CHECK

- ✓ One study showed that "nearly 30% of the respondents reported that their legal matter had a negative impact on relationships with family or friends, with the most commonly reported problems being depression, stress, sleep problems and weight issues."⁹³

B. An Examination of Specific Legal Problem Costs: Calculating Actual Productivity and Healthcare Costs Related to Seven of the Most Serious Personal and Family Legal Problems Suffered by Employees and their Families

Legal problems have varying degrees of consequences suffered by the employee depending upon the legal problem itself. While there are numerous indirect costs of

stress that impact employers, there are three (3) identifiable, direct measurable costs of employee legal and financial stress to the employer:

- prescription drug cost,
- healthcare and mental health counseling and/or treatment costs, and
- the costs related directly to absenteeism.

Lawsuits and legal problems inevitably have deadlines, research, filings or proceedings that the employee must either attend or miss work to handle. For example, an employee arrested for DUI/DWI will be required to attend at least two separate court hearings, and there may be as many as five or six court hearings with the lawyer in an attempt to defend or dismiss the legal matter. The probating of an elder parent's estate requires a tremendous amount of time for the executor — oftentimes the employee — to compile the estate's assets, identify debts and liabilities of the estate and create a full accounting of the estate values. This can be an extremely emotional time for an employee, particularly if the parent's death was unexpected. Similarly, a contested divorce may require repeated court appearances for depositions, hearings, motions and other issues that require days off from work if the divorce goes to trial.

The details of the formulas and calculations used in this Study are set forth in detail in Appendix A. There all of the calculations

About This Study

To measure these costs, we examined the average number of court-mandated proceedings along with the usual legal proceeding events in different types of legal issues, and we created formulas that measure the costs of missed work time for seven (7) types of legal issues. The LegalEASE Employee Legal Health Study focuses on seven very common types of legal problems that employees face, and we will examine each in this Study. These seven legal matters were chosen as the most common based on our 20 years of legal problem usage statistics.⁹⁴

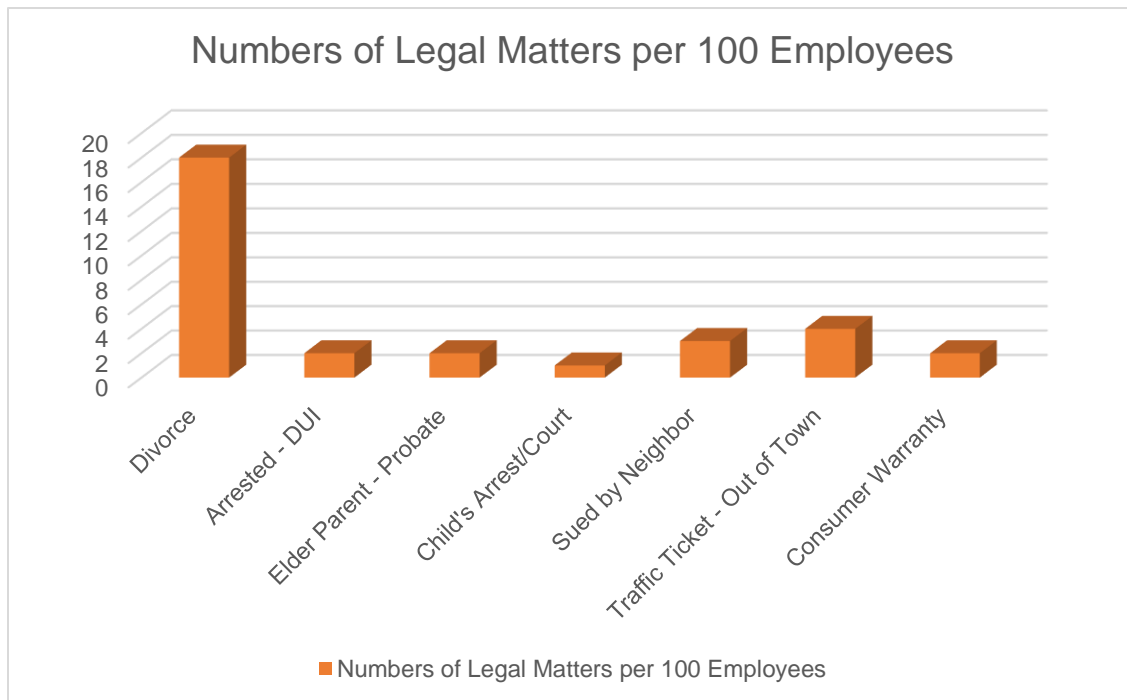
Figure 14 below illustrates the rate of occurrence per 100 employees in a Company of these seven most common legal

utilized in this section to describe the “hard” costs to the employer of various types of common employee legal problems are included. We have only focused only on the three “hard” measurable employer costs: (1) absenteeism or missed work time, (2) healthcare costs defined only as costs for visits with physicians and psychologists, and (3) prescription drug costs. Since productivity factors such as work-related accidents, presenteeism, loyalty and retention are difficult to measure accurately, we did not consider these, although we know some of the employee legal problems do carryover into direct effects in these productivity areas.

To determine the link between the stress caused by employee legal and financial problems and Company employee productivity costs, this Study is based on these three (3) metrics – absenteeism, increased healthcare visits, increased prescription drug costs — and examines the three major employer costs for seven types of legal problems.

problems employees suffer that end in protracted litigation and can create serious problems for employees.

Figure 14: ⁹⁴



C. Divorce and Family Law Related Legal Matters

The most utilized area of law causing problems and stress for employees is in the divorce and divorce-related area. We first looked at the absenteeism metric and found two (2) aspects of measurable absenteeism costs: (1) the missed work costs due to the actual litigation requirements – attending


court hearings, depositions and meetings with one’s attorney; and (2) the missed work component when an employee must conduct an initial search to find the attorney to actually help them before the litigation ever starts.

1. Actual Missed Work Costs: Lawsuit Proceedings – the First Part of the Absenteeism Calculation

In Appendix A at the end of this Study we have provided all of the calculations utilized in arriving at the employer costs on the seven (7) types of common employee legal matters. Starting with the most common employee legal matter — divorce and divorce-related costs — we calculated the cost to the employer of the different categories of costs from our three metrics – missed work time (absenteeism), healthcare costs, including costs for physicians and psychologists, and prescription drug costs.

Using our first legal matter area — divorce — Table 1 shown on page 78 shows the costs for missed work time related to the time missed from work to attend different necessary court proceedings.

Table 1 shows that for every 100 employees, the average number of employees that have filed and are engaged in a court proceeding seeking a divorce is four (4). This figure was calculated based on a 20-year study of LegalEASE Plan usage statistics for large companies with 5,000 or more employees.⁹⁵ This Study represents a fairly typical



scenario of divorces pending in a company of 100 employees. We calculated the lost work time by using United States Department of Labor national hourly rate statistics for all employees in the United States.

Table 1 shows that the missed work time based on these figures is \$6,263 per 100 employees per year. This information is


useful because it builds on the general employee stress studies [cited earlier] that conclude 36% of the workforce is besieged by stress from many sources. By breaking down this stress category into smaller parts, such as the stress caused by legal and financial problems, employers can determine if there are solutions to reduce the amount of divorce-related stress employees suffer.

Table 1: Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings

Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings	Caused By: Court Appearances			Caused By: Attending Depositions			Caused By: Attending Consultations			Caused By: Reviewing Material at Work *4			Total Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings		
	Work Hours Per Day *1	Hourly Wage [Including Benefits] *2	Number of Employees Affected by Court-Filed Legal Proceedings *3	# Missed Work Days per Affected Employee	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Unproductive Work Hours per Affected Employee	\$ Unproductive Work Hours per 100 Employees	Total # Missed Hours per 100 Employees *5	Total # Missed Work Hours per Employee	Total \$ Missed Work Hours per 100 Employees *6
Legal Matter	8	\$30.11	4	3	24	\$2,891	12	\$1,445	4	\$482	12	\$1,445	52	208	\$6,263
Criminal Matter	8	\$30.11	3	2	16	\$1,445	0	\$0	4	\$361	8	\$723	28	84	\$2,529
Probate an Elder Parents Estate	8	\$30.11	2	7	56	\$3,372	7	\$422	12	\$723	18	\$1,084	93	186	\$5,600
Civil Litigation (Neighbor) Dispute	8	\$30.11	2	3	24	\$1,445	12	\$723	10	\$602	12	\$723	58	116	\$3,493
Consumer Warranty Problem - Small Claims	8	\$30.11	5	1	8	\$1,204	2	\$301	5	\$753	5	\$753	20	100	\$3,011
Traffic Ticket/License Suspension	8	\$30.11	2	2	16	\$964	0	\$0	4	\$241	2	\$120	22	44	\$1,325
DWI/DUI	8	\$30.11	1	2	16	\$482	0	\$0	4	\$120	5	\$151	25	25	\$753
Total Number of Employees Affected by Court-Filed Legal Proceedings			19	20	160	\$11,803	33	\$2,891	43	\$3,282	62	\$4,988	298	763	\$22,974

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by Court-Filed Proceedings" Is calculated per 100 employees
- *4. Presenteeism is the number of hours at work but not concentrating causing the employee to be unproductive
- *5. This figure is calculated by multiplying "Total # Missed Work Hours per Affected Employee" by "Number of Employees Affected by Court-Filed Legal Proceedings *3"
- *6. This figure is calculated by multiplying "Total # Missed Work Hours per 100 Employees *5" by "Hourly Wage [Including Benefits] *2"



In addition to actual divorce court battles, there are employees that may be engaged in divorce-related or family law legal matters, even if they are not yet in actual court litigation. These “Non Court-Filed” legal matters require employees to miss work but not to the full extent of a court battle. Table 2 on the following page shows the calculations for missed work time from these Non-Court-Filed divorce legal matters.

Using these same LegalEASE Company usage studies, we find that 23 employees per 100 have family law issues, even if they haven’t reached court litigation or if they have already been litigated. Many types of

family law and divorce-related problems fall into this category, including child custody struggles, child visitation abuses, TROs [temporary restraining orders] and other types of disputes with spouses or ex-spouses that may ultimately lead to more court battles but at the current level of the dispute require time away from work for spouses — still married — battling over marital issues. Table 2 shows these calculations.⁹⁶

Using a similar analysis, Table 2 shows this absenteeism metric category the per-100 employee cost is \$12,466 per year in annualized costs, highlighted in blue.

Table 2: Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings ⁹⁶

Legal Matter	Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings				Caused By:		Caused By:		Total Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings			
	Work Hours Per Day *1	Hourly Wage [Including Benefits] *2	Number of Employees Affected by "Non-Court Filed" Legal Proceedings *3	Hearings/Mediations/Office Proceedings	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	Non-Court Related Consultations	Reviewing Material at Work *4	Total # Missed Work Hours per Affected Employee	Total # Missed Work Hours per 100 Employees *5	Total \$ Missed Work Hours per 100 Employees *6	
Divorce	8	\$30.11	23	2	\$1,385	4	\$2,770	12	\$8,310	18	414	\$12,466
Criminal Matter	8	\$30.11	4	0	\$0	4	\$482	8	\$964	12	48	\$1,445
Probate an Elder Parent's Estate	8	\$30.11	18	8	\$4,336	12	\$6,504	18	\$9,756	38	684	\$20,595
Civil Litigation (Neighbor Dispute)	8	\$30.11	9	2	\$542	10	\$2,710	12	\$3,252	24	216	\$6,504
Consumer Warranty Problem - Small Claims	8	\$30.11	12	2	\$723	5	\$1,807	5	\$1,807	12	144	\$4,336
Traffic Ticket/License Suspension	8	\$30.11	6	3	\$542	4	\$723	2	\$361	9	54	\$1,626
DWI/DUI	8	\$30.11	2	0	\$0	4	\$241	5	\$301	9	18	\$542
Total Number of Employees Affected by "Non-Court Filed" Legal Proceedings			74	17	\$7,528	43	\$15,236	62	\$24,750	122	1,578	\$47,514

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by "Non Court-Filed Proceedings" Is calculated per 100 employees
- *4. Presenteeism is the number of hours at work but not concentrating causing the employee to be unproductive
- *5. This figure is calculated by multiplying "Total # Missed Work Hours per Affected Employee" by "Number of Employees Affected by Non Court-Filed Legal Proceedings *3"
- *6. This figure is calculated by multiplying "Total # Missed Work Hours per 100 Employees *5" by "Hourly Wage [Including Benefits] *2"

2. Actual Missed Work Costs: Initial Search for Attorney – The Second Part of the Absenteeism Equation

The second measure is the absenteeism costs involved in the initial attorney search. It is not a well-known fact that only 9% of employees know an attorney they can retain when a legal problem arises. That means 91% of the employees who need an attorney do not know what to do and have no one to call.

We earlier cited the LegalEASE Study stating that an average of 22 hours of

employee time are wasted in the first two days of a legal problem. This waste is attributable to the time an employee engages colleagues about the legal problem and asking for help, advice and attorney referrals.⁹⁷


Below is an excerpt from earlier in our study detailing the mindset of many employees that are unexpectedly served with a lawsuit:

Additionally, many employees believe they know an attorney who can help them if a legal matter ever arose. Many employees have brothers or sister-in-laws, who are attorneys, or have family friends, or have a colleague who used an attorney in the past. They feel that they could call them if they ever had a legal problem. They find out very fast that those attorneys become very unavailable to help employees for a variety of reasons: (1) the fees are too high and unaffordable for the employee; (2) the lawyer does not practice in the area needed; (3) the lawyer is not taking new cases; (4) the attorney is involved in a major case and will be unavailable for weeks, and a variety of other reasons. All of a sudden, the employee feels very alone in their search for an attorney and deadlines are usually looming. In many cases, because they feel alone, procrastination sets in along with paralysis as the employee tries to ask fellow employees that they would use as an attorney. The race against the filing clock takes shape like this for thousands of employees a day embroiled in a lawsuit.

They have received the Summons and Complaint/Petition giving them the requisite days to respond [or default]. They begin calling attorneys from referrals. Some attorneys set up appointments and the employee takes off of work, only to find out that that attorney is not the right attorney for them usually for experience, disposition or pricing reasons. They then conduct a yellow pages or online search combing the resources for attorneys and making call after call to attorneys to see if they can find help. Days turn into weeks, and several days are taken off by the employee chasing dead ends. Visits with attorneys lead to nothing new except more possible referrals or leads. The time deadlines become looming and default is at risk. Employees become desperate and in addition to time off for attorney visits and consultations, physician or psychologist appointments are made to help control the rising anxiety, fear and depression from the lawsuit and not finding help.⁹⁸

Typically, before a lawsuit or response is even filed, employees are forced to take work time to research attorneys to help them with their legal problem. This usually starts with

recommendations from fellow employees or family members who have recommendations but no real knowledge of the area of practice, the specialty or experience of the attorneys



they are recommending and this occurs largely during work time.

After several-day delays, false starts and usually at least one day off of work for the first real appointment, the employee's search

can move into the areas of Yellow Pages, internet or attorney advertisements further removing any personal relationship from the search and exacerbating the stress and urgency levels.

Table 3: Employer Cost due to Missed Time: Initial Attorney Search ⁹⁹

Employer Cost due to Missed Time: Initial Attorney Search							Caused By:			Total Employer Cost due to Missed Time: Initial Attorney Search
Legal Matter	Work Hours Per Day *1	Hourly Wage [Including Benefits] *2	Number of Employees Affected by "Court-Filed" Legal Proceedings *3	Number of Employees Affected by "Non-Court-Filed" Legal Proceedings *4	Total Number of Employees Affected by "Court-Filed" + "Non-Court-Filed" Legal Proceedings *5	# Missed Work Days per Affected Employee	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per Affected Employee *6	Total # Missed Work Hours per 100 Employees *7	Total \$ Missed Work Hours per 100 Employees *8
Divorce	8	\$30.11	4	23	27	3.8	30.4	\$915	821	\$24,714
Criminal Matter	8	\$30.11	3	4	7	3.8	30.4	\$915	213	\$6,407
Probate an Elder Parent's Estate	8	\$30.11	2	18	20	3.8	30.4	\$915	608	\$18,307
Civil Litigation (Neighbor) Dispute	8	\$30.11	2	9	11	3.8	30.4	\$915	334	\$10,069
Consumer Warranty Problem - Small Claims	8	\$30.11	5	12	17	3.8	30.4	\$915	517	\$15,561
Traffic Ticket/License Suspension	8	\$30.11	2	6	8	3.8	30.4	\$915	243	\$7,323
DWI/DUI	8	\$30.11	1	2	3	3.8	30.4	\$915	91	\$2,746
Total Number of Legal Matters per 100 Employees					93	26.6	212.8	\$6,407	2,827	\$85,127

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by 'Court-Filed' Legal Proceedings is calculated per 100 employees
- *4. The number of employees "Affected by Non Court-Filed' Legal Proceedings is calculated per 100 employees
- *5. This figure is calculated by adding "Number of Employees Affected by 'Court-Filed' Legal Proceedings *3" to "Number of Employees Affected by 'Non Court-Filed'" Legal Proceedings *4"
- *6. This figure is calculated by multiplying "# Missed Work Hours per Affected Employee" by "Hourly Wage [Including Benefits] *2"
- *7. This figure is calculated by multiplying "# Missed Work Hours per Affected Employee" by "Number of Employees Affected by Court-Filed + Non Court-Filed Legal Proceedings *5"
- *8. This figure is calculated by multiplying "Total # Missed Work Hours per 100 Employees **" by "Hourly Wage [Including Benefits] *2"

Quantified this means an average of 3-5 days of missed work time for each legal matter is usually lost by each employee involved in a legal matter — time spent meeting with attorneys that are not a fit for the case — before the legal matter ever gets filed or responded to. Table 3 on the previous page shows our calculations for this aspect

of missed work time using our number of legal matters in our Study for Divorce and divorce-related legal matters in Tables 1 and 2 where we found an average of 27 divorce-type legal matters per 100 employees. Using 3.8 days of missed work per case for all divorce-related cases carries an employer cost of \$24,714 as shown in Table 3.

3. Summary of Employer Cost due to Employee Missed Time: All Absenteeism Factors

Thus, if we look at all of the missed work time calculations, we find that on average for every 100 employees, the missed work time employees are absent from work to handle either the legal matter or a search for legal help amounts to \$ 43,443, which is calculated combining the totals in Tables 1, 2 and 3 for the divorce area. In most cases, HR Managers do not even know their employees are involved in legal problems,

and certainly do not realize that some \$43,000 per year per 100 employees is being wasted in missed work time. As we have uncovered, most employees use excuses other than the actual legal problem as the reason for missed work, as they are very uncomfortable letting their employers or managers know about their involvement in a legal matter.

4. Employer Cost due to Missed Time in the Divorce Area: Visits to Doctor and/or Mental Health Counselor

Once again, there is no scientific study to clearly measure the exact costs associated with legal problems directly related to the healthcare costs of physician and/or psychiatric/psychologist visits to treat the emotional aspects of legal-related stress. However, we can still provide an accurate

estimate with relative certainty of these healthcare costs.

Healthcare costs — actual physician/psychiatric visits — have two measurable costs to the employer:

- the missed work cost when employees are absent from work doctor and/or mental health counselor visits, and
- the actual cost of each doctor and/or mental health counselor visit per employee related to the legal problem.

a. First component of Doctor and/or Mental Health Counselor Visit Costs – Missed Work Time


Table 4 on the next page shows the missed work calculations:

Table 4: Employer Cost due to Missed Time: Visits to Doctor and/or Mental Health Counselor

Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor										Caused By:		
Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor										Visits to Doctor &/or Mental Health Counselor		
Legal Matter	Work Hours Per Day *1	Hourly Wage [Including Benefits] *2	Number of Employees Affected by Court-Filed Legal Proceedings *3	Number of Employees Affected by Non Court-Filed Legal Proceedings *4	Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *5	# Doctor &/or Mental Health Counseling Visits per Stressed Employee	# Missed Work Hours per Stressed Employee per Visit	# Missed Work Hours per Stressed Employee *6	\$ Employer per Stressed Employee *7	Total # Missed Work Hours per 100 Employees *8	Total Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor	
Divorce	8	\$30.11	4	23	27	5.2	2.3	11.96	\$360	323	\$9,723	
Criminal Matter	8	\$30.11	3	4	7	5.2	2.3	11.96	\$360	84	\$2,521	
Probate an Elder Parent's Estate	8	\$30.11	2	18	20	5.2	2.3	11.96	\$360	239	\$7,202	
Civil Litigation (Neighbor Dispute)	8	\$30.11	2	9	11	5.2	2.3	11.96	\$360	132	\$3,961	
Consumer Warranty Problem - Small Claims	8	\$30.11	5	12	17	5.2	2.3	11.96	\$360	203	\$6,122	
Traffic Ticket/License Suspension	8	\$30.11	2	6	8	5.2	2.3	11.96	\$360	96	\$2,881	
DW/DUI	8	\$30.11	1	2	3	5.2	2.3	11.96	\$360	36	\$1,080	
Total Number of Legal Matters per 100 Employees					93	36.4	16.1	83.72	\$2,521	1,112	\$33,491	

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by 'Court-Filed' Legal Proceedings" is calculated per 100 employees
- *4. The number of employees "Affected by 'Non Court-Filed' Legal Proceedings" is calculated per 100 employees
- *5. This figure is calculated by adding "Number of employees Affected by 'Court-Filed' Legal Proceedings *3" to "Number of Employees Affected by 'Non Court-Filed' Legal Proceedings *4"
- *6. This figure is calculated by multiplying "# Mental Health Counseling Visits per Stressed Employee" by "# Missed Work Hours per Stressed Employee per Visit"
- *7. This figure is calculated by multiplying " # Missed Work Hours per Stressed Employee *6" by "Hourly Wage [Including Benefits] *2"
- *8. This figure is calculated by multiplying "# Missed Work Hours per Stressed Employee *6" by "Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *5"
- *9. This figure is calculated by multiplying "# Total # Missed Work Hours per 100 Employees *8" by "Hourly Wage [Including Benefits] *2"



Using Table 4 on the previous page and our earlier 2008 study on stress, we know the total cost of healthcare visits per year in the United States (in 2008) and how much is attributable to the American workforce. That study found that 36% of the employee population was incurring healthcare costs to treat all kinds of stress and that the average number of visits to either physicians or psychiatrists/psychologists for treatment of stress is 5.2 visits.¹⁰⁰

We can see from Table 4 that there are 27 divorce and divorce-related legal matters per 100 employees and that the average workforce hourly rate from Table 1 is \$30.11. Calculating the average missed work hours

to attend these physician/psychiatric visits, we can see that the total lost work time for an employer per 100 employees is \$9,723.

Before we leave the missed work costs to employers, we can examine Table 5 which is a compilation of all the missed work costs regardless of whether they are absenteeism costs from attending legal proceedings, interviewing attorneys while conducting searches, or missing work to visit their physicians/psychiatrists for emotional health treatment. There we see that the total cost of missed work time related to all aspects of employee legal problems for the divorce area is \$53,166.

Table 5 [Summary of Tables 1-4] – Compilation of Absenteeism Costs

Employer Cost due to Employee Missed Time: All Factors	Total Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings *	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	Total Employer Cost due to Employee Missed Time: All Factors
Legal Matter	\$ Missed Work Hours per 100 Employees *1	\$ Missed Work Hours per 100 Employees *2	\$ Missed Work Hours per 100 Employees *3	\$ Missed Time per 100 Employees *4	Total \$ Missed Time per 100 Employees
Divorce	\$6,263	\$12,466	\$24,714	\$9,723	\$53,166
Criminal Matter	\$2,529	\$1,445	\$6,407	\$2,521	\$12,903
Probate an Elder Parent's Estate	\$5,600	\$20,595	\$18,307	\$7,202	\$51,705
Civil Litigation (Neighbor) Dispute	\$3,493	\$6,504	\$10,069	\$3,961	\$24,027
Consumer Warranty Problem - Small Claims	\$3,011	\$4,336	\$15,561	\$6,122	\$29,030
Traffic Ticket/License Suspension	\$1,325	\$1,626	\$7,323	\$2,881	\$13,154
DWI/DUI	\$753	\$542	\$2,746	\$1,080	\$5,121
	\$22,974	\$47,514	\$85,127	\$33,491	\$189,105

Assumptions & Definitions

- *1. Data from Table 1
- *2. Data from Table 2
- *3. Data from Table 3
- *4. Data from Table 4

**b. Second Component of Doctor and/or Mental Health Counselor Visits
Costs – The Actual Costs of Visits**

In addition to missed work costs, the employer also pays healthcare costs, either directly or indirectly as do employees through their co-pays. Knowing that per 100 employees there will be 4 employees involved in divorce proceedings and 23 employees involved in divorce-related proceedings; the total cost of visits for treatment if all affected employees went for the stress treatment visits can be measured. We calculated this metric - the healthcare costs for treatment and related counseling and physician visits in Table 6 on the following page.

Table 6 shows how the healthcare treatment costs were calculated for each of the divorce matters per 100 employees. Using a recent

study, there is an average of 5.2 visits to either a physician or a mental health professional for each stress issue suffered.¹⁰¹

One can argue that not all those with legal problems will engage a physician or psychiatrist for treatment and as such we can argue that only some percentage of the affected employee population will do so. In the absence of a scientific study confirming the exact number, we can use the arbitrary figure of 50%, thereby determining that the real cost to employers for doctor and/or mental health counselor visits will be 50% of the figure on line 1 of Table 6 or \$ 5,265 per 100 employees.

Table 6: Cost of Employee Visits to Doctor and/or Mental Health Counselor

Cost of Employee Visits to Doctor &/or Mental Health Counselor		Caused By:					Total Cost of Visits to Doctor &/or Mental Health Counselor
		Visits to Doctor &/or Mental Health Counselor					
Legal Matter	Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *1	Total Number of Employees Receiving Treatment from Doctor &/or Mental Health Counselor *2	# Doctor &/or Mental Health Counseling Visits per Stressed Employee	Average \$ Doctor &/or Mental Health Counselor per Visit *3	Total \$ Doctor &/or Mental Health Counselor Visits per Employee	Total \$ Mental Health Visits [\$75/Visit] *4	
Divorce	27	13.5	5.2	\$75.00	\$390.00	\$5,265	
Criminal Matter	7	3.5	5.2	\$75.00	\$390.00	\$1,365	
Probate an Elder Parent's Estate	20	10	5.2	\$75.00	\$390.00	\$3,900	
Civil Litigation (Neighbor) Dispute	11	5.5	5.2	\$75.00	\$390.00	\$2,145	
Consumer Warranty Problem - Small Claims	17	8.5	5.2	\$75.00	\$390.00	\$3,315	
Traffic Ticket/License Suspension	8	4	5.2	\$75.00	\$390.00	\$1,560	
DWI/DUI	3	1.5	5.2	\$75.00	\$390.00	\$585	
Total Number of Legal Matters	93	46.5			\$2,730	\$18,135	

Assumptions & Definitions

- *1. The number of employees is calculated per 100 employees
- *2. This figure is calculated by taking 50% of the number of employees in *1
- *3. \$75 is the approximated amount of a visit to Doctor &/or Mental Health Counselor per employee
- *4. This figure is calculated by multiplying *2 by "Total \$ Doctor &/or Mental Health Counselor Visits per Employee"

5. Stress-Related Treatment Costs – The Prescription Drug Costs Metric

As we are seeing, each type of legal problem causes varying degrees of upset, stress, anger, depression and other emotional issues. We have examined the most commonly utilized types of legal matter – divorce and divorce-related matters - experienced by employees and analyzed some of the approximate costs of the employee stress suffered as a result of these matters. We have seen how the divorce area can bring an entire gamut of emotions: anger, hatred, depression, fear, anxiety, loss

of control, loss of sleep, as well as potential violence or fear of violence.

Using a 2008 study, we start with the entire prescription drug costs in the U.S. per year, and using our Department of Labor figure of 41% of the U.S. population in the workforce, we calculate the prescription drug cost average attributable to those in the workforce suffering from legal problems.¹⁰²

Table 7 on the next page shows our calculations.

Table 7: Cost of Employees using Prescription Drugs for Stress Related Issues

Cost of Employees Using Prescription Drugs for Stress Related Issues		United States / 2008		Caused By:		Total Cost of Employees Using Prescription Drugs for Stress Related Issues		
		Total Prescription Cost x Adults in Workforce		Employees Using Prescription Drugs Specifically for Stress Related Issues				
Legal Matter	Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *1	Total \$ Prescription Drugs in US *2	% of US Adult Population Employed *3	Total \$ Workforce Prescription Drugs *4	\$ Prescription Drugs per US Employee per Year *5	% of Workforce Using Prescription Drugs for Stress *6	\$ Prescription Drugs Used for Stress per US Employee per Year *7	\$ Employees Using Prescription Drugs for Stress per 100 Employees *8
Divorce	27	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$10,974
Criminal Matter	7	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$2,845
Probate an Elder Parent's Estate	20	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$8,129
Civil Litigation (Neighbor) Dispute	11	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$4,471
Consumer Warranty Problem - Small Claims	17	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$6,909
Traffic Ticket/License Suspension	8	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$3,252
DWI/DUI	3	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$1,219
Total Number of Legal Matters	93	\$1,638,700,000,000		\$671,867,000,000	\$7,903		\$2,845	\$37,799

Assumptions & Definitions

- *1. The number of employees is calculated per 100 employees
- *2. Total Prescription Drug Costs in United States / 2008
- *3. 41% is the percentage of American Adults in the workforce / 2008
- *4. This figure is calculated by multiplying "Total \$ Prescription Drugs by % Adult Population Employed"
- *5 \$1,129 is the calculated amount of prescription costs / employee / year Assuming a workforce of 85,000,000 employees
- *6. 36% of the prescription costs are specifically for stress related issues
- *7. This figure is calculated by multiplying "\$ Prescription Drugs / Employee / Year" by "% Workforce Using Prescription Drugs"
- *8. This figure is calculated by multiplying "Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *1 " by "\$ Prescription Drugs Used for Stress per US Employee per Year *7"

Our 2008 study shows that 36% of the prescription drug cost per employee is related to stress, which equates to \$406 per employee for all stress-related issues. Because there is no definitive scientific study that has determined exactly how much of the per-employee stress costs is related directly to an employee's legal and financial stress, we could simply attribute all of the stress of the 4 employees per 100 who are involved in a divorce proceeding and all 23 employees per 100 who are involved in a legal matter involving some type of divorce or family law matter and argue that 27 employees will

- some employees involved in divorce proceedings will not access prescription drugs during their stress times, and
- some of those suffering from divorce-related problems will also be incurring other sources of stress.

In the absence of a scientific study, we again use 50% as an arbitrary percentage of the 27 (4+23) employees suffering from divorce-related legal matters that will be treated for stress with prescription drugs. The result is 13.5 employees who will likely access and use prescription drugs because they are involved in divorce court proceedings or in divorce-related proceedings. After applying

6. Total Treatment Costs for Divorce and Divorce-Related Matters

In Table 8 on the following page, we calculate the total of the treatment costs for all of the divorce and divorce-related legal

each incur a prescription drug cost of \$406 for a 27-employee total of \$10,974 when they are involved in a divorce or divorce-related legal matter.¹⁰³

As with our physician/psychiatrist visit cost calculation above, it is unlikely that 100% of all employees affected by a divorce-related legal problem will incur prescription drugs to treat the emotional stress issues. The figures in Table 7 may be overstating the prescription drug cost per employee for two reasons:

the arbitrary discount factor of 50%, we have a prescription drug cost of \$5,481. As Table 7 shows, this number can be calculated by multiplying the total cost of \$10,974 by 50%. It can also be calculated by multiplying the total employees per 100 involved in divorce related matters, 27, by 50% and then again by \$406, the cost per employee.

matters per 100 employees using our formula to be \$16,239.¹⁰⁴

Table 8: Summary Cost Prescription Drugs & Visits to Doctor and/or Mental Health Counselor for Stress Related to Legal & Financial Issues

Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal & Financial Issues	Total Cost of Visits to Doctor &/or Mental Health Counselor *1	Total Cost of Employees Using Prescription Drugs for Stress Related Issues *2	Total Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal & Financial Issues
Legal Matter	\$ Employees Using Prescription Drugs for Stress per 100 Employees *1	\$ Mental Health Visits [\$75/Visit] *2	Total \$ Time per 100 Employees
Divorce	\$5,265	\$10,974	\$16,239
Criminal Matter	\$1,365	\$2,845	\$4,210
Probate an Elder Parent's Estate	\$3,900	\$8,129	\$12,029
Civil Litigation (Neighbor) Dispute	\$2,145	\$4,471	\$6,616
Consumer Warranty Problem - Small Claims	\$3,315	\$6,909	\$10,224
Traffic Ticket/License Suspension	\$1,560	\$3,252	\$4,812
DWI/DUI	\$585	\$1,219	\$1,804
	\$18,135	\$37,799	\$55,934

Assumptions & Definitions

*1. Data from Table 6

*2. Data from Table 7

7. Total Treatment Costs for Divorce and Divorce-Related Matters

In Table 9, we can see all of the costs for our three (3) metrics calculated using each of the categories discussed above for all of the

divorce and divorce-related legal matters per 100 employees. The total cost using our formula is \$69,405.

Table 9-DIVORCE: Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor and/or Mental Health Counselor for Stress Related to Legal Matters:

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	\$5,265
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$10,974
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$16,239
Grand Total	\$69,405

D. Probating an Elder Parent's Estate

We can repeat this same analysis for the second legal problem in which a portion of the employee population is likely to be

engaged at any time – probating an Elder Parent's estate.

INNOVATION CHECKS

- ✓ 38% of all employees are in the well-known sandwich generation — those adult employees taking care of the needs of both their children and their elder parents or their spouse's elder parents.¹⁰⁵
- ✓ Legal problems with respect to elder parents are pervasive, and very few employees have access to the resources needed to help them understand and handle these legal problems.
- ✓ With resources and fewer solutions or answers, stress, emotional upset and frustration increase for employees managing the responsibilities of their elder parents.

While elder parent needs are primarily focused on money, health and nursing home issues, each of these major categories has legal and financial overtones, and every action and decision has serious consequences. Many of these problems are legal in nature and if made without regard to

legal considerations, serious problems can result: foreclosures, repossessions, title and deed to property problems, contractor issues, accidents and injury issues, and even fraudulent transfer issues with Medicare legal problems.

1. Absenteeism Calculated – Probating an Elder Parent’s Estate

Looking at Table 1 again (presented a second time on the next page), we can see that for every 100 employees, there will be at least two employees that must probate an elder parent’s estate.

This calculation was made based on a 20-year study of LegalEASE Company usage statistics for large companies with 5,000+ employees and represents a fairly typical scenario of pending probates of elder parents’ estates in a company of 100 employees.¹⁰⁵ This calculation does not include other elder parent issues that become legal problems and in which employees seek resources to handle these problems.

If we look at the types of proceedings involved in probating an estate — court hearings, discovery, research, consultations, accounting, accumulating assets, other requirements — there is a major amount of missed work time for the employee probating a deceased parent’s estate.


Table 1 provides an analysis of the typical time required by an employee involved in a legal matter. Using the same analysis as used above for divorce, the average cost for missed work time by employees involved in court proceedings is \$ 5,600 per 100 employees.¹⁰⁶

Table 1: Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings

Legal Matter	Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings			Caused By: Court Appearances		Caused By: Attending Depositions		Caused By: Attending Consultations		Caused By: Reviewing Material at Work *4		Total Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings		
	Work Hours Per Day *1	Hourly Wage [including Benefits] *2	Number of Employees Affected by Court-Filed Legal Proceedings *3	# Missed Work Days per Affected Employee	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Missed Work Hours per Affected Employee	\$ Unproductive Work Hours per 100 Employees	Total # Missed Work Hours per Affected Employee	Total # Missed Work Hours per 100 Employees *5	Total \$ Missed Work Hours per 100 Employees *6	
Divorce	8	\$30.11	4	3	24	\$2,891	12	\$1,445	4	\$482	12	\$1,445	52	\$6,263
Criminal Matter	8	\$30.11	3	2	16	\$1,445	0	\$0	4	\$361	8	\$723	28	\$2,529
Probate an Elder Parents Estate	8	\$30.11	2	7	56	\$3,372	7	\$422	12	\$723	18	\$1,064	93	\$5,600
Civil Litigation (Neighbor) Dispute	8	\$30.11	2	3	24	\$1,445	12	\$723	10	\$602	12	\$723	58	\$3,493
Consumer Warranty Problem - Small Claims	8	\$30.11	5	1	8	\$1,204	2	\$301	5	\$753	5	\$753	20	\$3,011
Traffic Ticket/License Suspension	8	\$30.11	2	2	16	\$964	0	\$0	4	\$241	2	\$120	22	\$1,325
DWI/DUI	8	\$30.11	1	2	16	\$482	0	\$0	4	\$120	5	\$151	25	\$753
Total Number of Employees Affected by Court-Filed Legal Proceedings			19	20	160	\$11,603	33	\$2,891	43	\$3,282	62	\$4,988	298	\$22,974

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by Court-Filed Proceedings" is calculated per 100 employees
- *4. Presenteeism is the number of hours at work but not concentrating causing the employee to be unproductive
- *5. This figure is calculated by multiplying "Total # Missed Work Hours per Affected Employee" by "Number of Employees Affected by Court-Filed Legal Proceedings *3"
- *6. This figure is calculated by multiplying "Total # Missed Work Hours per 100 Employees *5" by "Hourly Wage [Including Benefits] *2"



Referring to Table 2 again (again on the following page), we can see that in addition to the actual probate filings, there are also Non-Court-Filed probate events that employees are forced to handle for their Elder Parents.

- spearheading estate planning,
- drafting living wills,
- helping parents sell their house,
- suing a contractor,
- determining how to qualify for Medicare, and
- transferring assets properly to avoid the risk of jail time for fraudulent transfers.¹⁰⁷

Calculating only the missed work time cost for these types of legal problems, the cost per 100 employees averages \$20,595 per

Table 2 shows that approximately 18 employees out of 100 are, at any given time, handling legal matters for their elder parents, including, among others:

year. This is a huge cost in missed work time for any employer.

Table 2: Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings ⁹⁶

Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings		Caused By:		Caused By:		Caused By:		Total Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings			
		Hearings/Mediations/Office Proceedings	Non-Court Related Consultations	Non-Court Related Consultations	Reviewing Material at Work *4	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Unproductive Work Hours per Affected Employee	\$ Unproductive Work Hours per 100 Employees	Total # Missed Work Hours per 100 Employees *5	Total \$ Missed Work Hours per 100 Employees *6
Legal Matter	Work Hours Per Day*1	Hourly Wage [Including Benefits]*2	Number of Employees Affected by "Non-Court Filed" Legal Proceedings *3	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Unproductive Work Hours per Affected Employee	\$ Unproductive Work Hours per 100 Employees	Total # Missed Work Hours per 100 Employees *5	Total \$ Missed Work Hours per 100 Employees *6
Divorce	8	\$30.11	23	2	\$1,385	4	\$2,770	12	\$8,310	18	\$12,466
Criminal Matter	8	\$30.11	4	0	\$0	4	\$482	8	\$964	12	\$1,445
Probate an Elder Parent's Estate	8	\$30.11	18	8	\$4,336	12	\$6,504	18	\$9,756	38	\$20,595
Civil Litigation (Neighbor Dispute	8	\$30.11	9	2	\$542	10	\$2,710	12	\$3,252	24	\$6,504
Consumer Warranty Problem - Small Claims	8	\$30.11	12	2	\$723	5	\$1,807	5	\$1,807	12	\$4,336
Traffic Ticket/License Suspension	8	\$30.11	6	3	\$542	4	\$723	2	\$361	9	\$1,626
DW/DUI	8	\$30.11	2	0	\$0	4	\$241	5	\$301	9	\$542
Total Number of Employees Affected by "Non-Court Filed" Legal Proceedings			74	17	\$7,528	43	\$15,236	62	\$24,750	122	\$47,514

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by "Non Court-Filed Proceedings" Is calculated per 100 employees
- *4. Presenteeism is the number of hours at work but not concentrating causing the employee to be unproductive
- *5. This figure is calculated by multiplying "Total # Missed Work Hours per Affected Employee" by "Number of Employees Affected by Non Court-Filed Legal Proceedings *3"
- *6. This figure is calculated by multiplying "Total # Missed Work Hours per 100 Employees *5" by "Hourly Wage [Including Benefits] *2"

2. Absenteeism Lost to Initial Attorney Search

Table 3¹⁰⁸ on the following page pinpoints lost work time at the outset of a case to find an attorney among the most costly items for an employer. Including calls, interviews and false starts, lost time initially is calculated at \$18,307.

We saw the problems and lost time that many employees have locating a compatible attorney once the legal matter arises. Here the problem in finding an attorney can be dramatically more difficult when the employee's Elder parents or Parent lived out of out the county or state of the caretaker employee. It can be even more of challenge

for the employee to attempt to engage the services of an attorney out-of-state where there are virtually no contacts or relationships on which to rely for a referral to the right attorney. Interviewing, discussing and almost all initial fact-finding require either travel to the attorney's state and office or a reliance on over-the-phone discussions which prove to be a difficult medium by which to get to know an attorney to determine his/her compatibility with the employee. Many attorneys refuse to return out-of-state calls when they have no idea who might be calling and for what reason.

Table 3: Employer Cost due to Missed Time: Initial Attorney Search

Employer Cost due to Missed Time: Initial Attorney Search							Caused By:			Total Employer Cost due to Missed Time: Initial Attorney Search	
							Visits to Attorneys Unable to Help with Legal Matter				
Legal Matter	Work Hours Per Day *1	Hourly Wage [Including Benefits] *2	Number of Employees Affected by "Court-Filed" Legal Proceedings *3	Number of Employees Affected by "Non-Court-Filed" Legal Proceedings *4	Total Number of Employees Affected by "Court-Filed" + "Non-Court-Filed" Legal Proceedings *5	# Missed Work Days per Affected Employee	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per Affected Employee *6	Total # Missed Work Hours per 100 Employees *7	Total \$ Missed Work Hours per 100 Employees *8	
Divorce	8	\$30.11	4	23	27	3.8	30.4	\$915	821	\$24,714	
Criminal Matter	8	\$30.11	3	4	7	3.8	30.4	\$915	213	\$6,407	
Probate an Elder Parents Estate	8	\$30.11	2	18	20	3.8	30.4	\$915	608	\$18,307	
Civil Litigation (Neighbor Dispute)	8	\$30.11	2	9	11	3.8	30.4	\$915	334	\$10,069	
Consumer Warranty Problem Small Claims	8	\$30.11	5	12	17	3.8	30.4	\$915	517	\$15,561	
Traffic Ticket/License Suspension	8	\$30.11	2	6	8	3.8	30.4	\$915	243	\$7,323	
DWI/DUI	8	\$30.11	1	2	3	3.8	30.4	\$915	91	\$2,746	
Total Number of Legal Matters per 100 Employees							26.6	212.8	\$6,407	2,827	\$85,127

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by 'Court-Filed' Legal Proceedings is calculated per 100 employees
- *4. The number of employees "Affected by Non Court-Filed' Legal Proceedings is calculated per 100 employees
- *5. This figure is calculated by adding "Number of Employees Affected by 'Court-Filed' Legal Proceedings *3" to "Number of Employees Affected by 'Non Court-Filed' Legal Proceedings *4"
- *6. This figure is calculated by multiplying "# Missed Work Hours per Affected Employee" by "Hourly Wage [Including Benefits] *2"
- *7. This figure is calculated by multiplying "# Missed Work Hours per Affected Employee" by "Number of Employees Affected by Court-Filed + Non Court-Filed Legal Proceedings *5"
- *8. This figure is calculated by multiplying "Total # Missed Work Hours per 100 Employees *" by "Hourly Wage [Including Benefits] *2"

3. Costs for the Stress Related to Elder Parent Legal Issues

We can also calculate the healthcare costs for treatment and related counseling and physician visits to handle the emotionally upsetting problems caused by legal issues.

For all stress suffered by employees, there are 5.2 average visits to either a physician or a mental health professional for each stress issue suffered. These findings are based on the Stress in the Workplace Survey by Harris Interactive on behalf of the American Psychological Association. Conducted online between January 31 and February 8, 2011, participants encompassed 1,546 adults ages 18 and older who reside in the United States and were employed full-time, part-time or self-employed.

As this study relates to the number of legal matters handled by employees on behalf of elder parents being handled by employees, Table 4 shows the costs to an employer for missed work time and visits to physicians and mental health professions costs to the employer, totaling \$7,202 per 100 employees per year.

And as we can see from Table 5 following Table 4, using the same analysis as we used for the Divorce and Divorce-related issues above, all of the missed work metrics in the probate category calculate to a total cost to the employer of \$51,705 for employees handling their elder parent's legal issues.

Table 5 [Summary of Tables 1-4] – Compilation of Absenteeism Costs

Employer Cost due to Employee Missed Time: All Factors	Total Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings *	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	Total Employer Cost due to Employee Missed Time: All Factors
Legal Matter					
Divorce	\$6,263	\$12,466	\$24,714	\$9,723	\$53,166
Criminal Matter	\$2,529	\$1,445	\$6,407	\$2,521	\$12,903
Probate an Elder Parent's Estate	\$5,600	\$20,595	\$18,307	\$7,202	\$51,705
Civil Litigation (Neighbor) Dispute	\$3,493	\$6,504	\$10,069	\$3,961	\$24,027
Consumer Warranty Problem - Small Claims	\$3,011	\$4,336	\$15,561	\$6,122	\$29,030
Traffic Ticket/License Suspension	\$1,325	\$1,626	\$7,323	\$2,881	\$13,154
DWI/DUI	\$753	\$542	\$2,746	\$1,080	\$5,121
	\$22,974	\$47,514	\$85,127	\$33,491	\$189,105

Assumptions & Definitions


- *1. Data from Table 1
- *2. Data from Table 2
- *3. Data from Table 3
- *4. Data from Table 4

Table 6: Cost of Employee Visits to Doctor and/or Mental Health Counselor

Cost of Employee Visits to Doctor &/or Mental Health Counselor		Caused By:					Total Cost of Visits to Doctor &/or Mental Health Counselor
		Visits to Doctor &/or Mental Health Counselor					
	Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *1	Total Number of Employees Receiving Treatment from Doctor &/or Mental Health Counselor *2	# Doctor &/or Mental Health Counseling Visits per Stressed Employee	Average \$ Doctor &/or Mental Health Counselor per Visit *3	Total \$ Doctor &/or Mental Health Counselor Visits per Employee	Total \$ Mental Health Visits [\$75/Visit] *4	
Legal Matter							
Divorce	27	13.5	5.2	\$75.00	\$390.00	\$5,265	
Criminal Matter	7	3.5	5.2	\$75.00	\$390.00	\$1,365	
Probate an Elder Parent's Estate	20	10	5.2	\$75.00	\$390.00	\$3,900	
Civil Litigation (Neighbor) Dispute	11	5.5	5.2	\$75.00	\$390.00	\$2,145	
Consumer Warranty Problem - Small Claims	17	8.5	5.2	\$75.00	\$390.00	\$3,315	
Traffic Ticket/License Suspension	8	4	5.2	\$75.00	\$390.00	\$1,560	
DWI/DUI	3	1.5	5.2	\$75.00	\$390.00	\$585	
Total Number of Legal Matters	93	46.5			\$2,730	\$18,135	

Assumptions & Definitions

- *1. The number of employees is calculated per 100 employees
- *2. This figure is calculated by taking 50% of the number of employees in *1
- *3. \$75 is the approximated amount of a visit to Doctor &/or Mental Health Counselor per employee
- *4. This figure is calculated by multiplying *2 by "Total \$ Doctor &/or Mental Health Counselor Visits per Employee"



Again there is a healthcare cost for the visits and we can see from Table 6 on the previous page, the direct employee for these visits is

\$3,900 per 100 employees and that does not include the indirect employer costs [increased cost of health care premiums].

4. Prescription Drugs Costs

In addition to the cost of missed work time, the employer must pay higher healthcare and prescription drug costs when employees utilize these benefits to treat the emotional aspects of legal and financial problems.

If we use the same analysis here as for our divorce issues, we can see From Table 7 on the next page, the employer costs for prescription drug expenses for employees stressed their parent's estate issues is \$8,129 per 100 employees.

Table 7: Cost of Employees using Prescription Drugs for Stress Related Issues

Cost of Employees Using Prescription Drugs for Stress Related Issues	United States / 2008				Caused By:			Total Cost of Employees Using Prescription Drugs for Stress Related Issues
	Total Prescription Cost x Adults in Workforce		Employees Using Prescription Drugs Specifically for Stress Related Issues		Prescription Drugs per US Employee per Year *5	% of Workforce Using Prescription Drugs for Stress *6	\$ Prescription Drugs Used for Stress per US Employee per Year *7	
Legal Matter	Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *1	Total \$ Prescription Drugs in US *2	% of US Adult Population Employed *3	Total \$ Workforce Prescription Drugs *4				\$ Prescription Drugs per US Employee per Year *5
Divorce	27	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$10,974
Criminal Matter	7	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$2,845
Probate an Elder Parents Estate	20	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$8,129
Civil Litigation (Neighbor Dispute	11	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$4,471
Consumer Warranty Problem - Small Claims	17	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$6,909
Traffic Ticket/License Suspension	8	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$3,252
DWI/DUI	3	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$1,219
Total Number of Legal Matters	93	\$1,638,700,000,000		\$671,867,000,000	\$7,903		\$2,845	\$37,799

Assumptions & Definitions

- *1. The number of employees is calculated per 100 employees
- *2. Total Prescription Drug Costs in United States / 2008
- *3. 41% is the percentage of American Adults in the workforce / 2008
- *4. This figure is calculated by multiplying "Total \$ Prescription Drugs by % Adult Population Employed"
- *5 \$1,129 is the calculated amount of prescription costs / employee / year Assuming a workforce of 85,000,000 employees
- *6. 36% of the prescription costs are specifically for stress related issues
- *7. This figure is calculated by multiplying "\$ Prescription Drugs / Employee / Year" by "% Workforce Using Prescription Drugs"
- *8. This figure is calculated by multiplying "Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *1 " by "\$ Prescription Drugs Used for Stress per US Employee per Year *7"

We based these calculations on some of the previous general stress studies cited earlier where one study shows that 36% of the prescription drug cost per employee is related to stress, which equates to \$406 per employee for all stress-related issues. Because there is no definitive scientific study that has determined exactly how much of the per-employee stress costs is related directly to an employee's legal and financial stress, we could simply attribute all of the stress of the 2 employees per 100 who are involved in a probate proceeding and all 18 employees per 100 who are involved in a legal matter

- some employees involved in divorce proceedings will not access prescription drugs during their stress times, and
- some of those suffering from divorce-related problems will also be incurring other sources of stress.

In the absence of a scientific study, we again use 50% as an arbitrary percentage of the 20 (2+18) employees suffering from divorce-related legal matters that will be treated for stress with prescription drugs. The result is 10 employees who will likely access and use prescription drugs because they are involved in divorce court proceedings or in divorce-related proceedings. After applying the

involving some type of elder parent legal matter and argue that 20 employees will each incur a prescription drug cost of \$406 for a 20-employee total of \$8,129 when they are involved in an elder parent legal matter.

As with our physician/psychiatrist visit cost calculation above, it is unlikely that 100% of all employee affected by a probate or elder related legal problem will incur prescription drugs to treat the emotional stress issues. The figures in Table 7 may be overstating the prescription drug cost per employee for two reasons:

arbitrary discount factor of 50%, we have a prescription drug cost of \$4,065. As Table 7 shows, this number can be calculated by multiplying the total cost of \$8,129 by 50%. It can also be calculated by multiplying the total employees per 100 involved in divorce related matters, 20, by 50% and then again by \$406, the cost per employee.

5. Total Treatment Costs for Probate and Elder Law Related Matters

In Table 8 on the next page, we calculate the total of the treatment costs for all of the probate and elder law-related legal matters

per 100 employees using our formula to be \$15,929.¹⁰⁹

Table 8: Summary Cost Prescription Drugs & Visits to Doctor and/or Mental Health Counselor for Stress Related to Legal & Financial Issues

Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal & Financial Issues	Total Cost of Visits to Doctor &/or Mental Health Counselor *1	Total Cost of Employees Using Prescription Drugs for Stress Related Issues *2	Total Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal & Financial Issues
Legal Matter	\$ Employees Using Prescription Drugs for Stress per 100 Employees *1	\$ Mental Health Visits [\$75/Visit] *2	Total \$ Time per 100 Employees
Divorce	\$5,265	\$10,974	\$16,239
Criminal Matter	\$1,365	\$2,845	\$4,210
Probate an Elder Parent's Estate	\$3,900	\$8,129	\$12,029
Civil Litigation (Neighbor) Dispute	\$2,145	\$4,471	\$6,616
Consumer Warranty Problem - Small Claims	\$3,315	\$6,909	\$10,224
Traffic Ticket/License Suspension	\$1,560	\$3,252	\$4,812
DWI/DUI	\$585	\$1,219	\$1,804
	\$18,135	\$37,799	\$55,934

Assumptions & Definitions

*1. Data from Table 6

*2. Data from Table 7

6. Total Treatment Costs for Probating an Elder Parent's Estate Matters

In Table 9, we can see all of the costs for our three (3) metrics calculated using each of the categories discussed above for all of the

probate of an elder parent estate and related probate matters per 100 employees. The total cost using our formula is \$67,634.

Table 9-PROBATE AN ELDER'S ESTATE: Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor and/or Mental Health Counselor for Stress Related to Legal Matters:

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	\$3,900
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$8,129
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$12,029
Grand Total	\$63,734

E. The Third Type of Common Legal Matter – Civil Litigation Matters

Civil litigation is a non-criminal legal dispute between two or more parties in which money damages are sought. For example, an employee's neighbor sues him for flooding damage after the employee installed a new deck. In this scenario, and for illustrative reasons, we assume the damages are not

covered by the employee's homeowners insurance or other insurance policies.

While not applicable to every civil litigation issue, there are a certain number of civil litigation issues per 100 employees in any company.

1. Absenteeism Calculated

Going back to Table 1 on the following, we see that for every 100 employees, two employees have filed and are engaged in a civil court litigation proceeding.

Table 1: Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings

Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings		Caused By: Court Appearances			Caused By: Attending Depositions			Caused By: Attending Consultations			Caused By: Reviewing Material at Work *4			Total Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings		
Legal Matter	Work Hours Per Day*1	Hourly Wage [Including Benefits]*2	Number of Employees Affected by Court-Filed Legal Proceedings *3	# Missed Work Days per Affected Employee	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per 100 Employees	# Unproductive Work Hours per Affected Employee	\$ Unproductive Work Hours per 100 Employees	Total # Missed Hours per Employee	Total # Missed Hours per 100 Employees *5	Total \$ Missed Work Hours per 100 Employees *6	
Divorce	8	\$30.11	4	3	24	\$2,891	12	\$1,445	4	\$482	12	\$1,445	52	208	\$6,263	
Criminal Matter	8	\$30.11	3	2	16	\$1,445	0	\$0	4	\$361	8	\$723	28	84	\$2,529	
Probate an Elder Parents' Estate	8	\$30.11	2	7	56	\$3,372	7	\$422	12	\$723	18	\$1,084	93	186	\$5,600	
Civil Litigation (Neighbor Dispute)	8	\$30.11	2	3	24	\$1,445	12	\$723	10	\$602	12	\$723	58	116	\$3,493	
Consumer Warranty Problem - Small Claims	8	\$30.11	5	1	8	\$1,204	2	\$301	5	\$753	5	\$753	20	100	\$3,011	
Traffic Ticket/License Suspension	8	\$30.11	2	2	16	\$964	0	\$0	4	\$241	2	\$120	22	44	\$1,325	
DWI/DUI	8	\$30.11	1	2	16	\$482	0	\$0	4	\$120	5	\$151	25	25	\$753	
Total Number of Employees Affected by Court-Filed Legal Proceedings			19	20	160	\$1,803	33	\$2,891	43	\$3,282	62	\$4,998	298	763	\$22,974	

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by Court-Filed Proceedings" Is calculated per 100 employees
- *4. Presenteeism is the number of hours at work but not concentrating causing the employee to be unproductive
- *5. This figure is calculated by multiplying "Total # Missed Work Hours per Affected Employee" by "Number of Employees Affected by Court-Filed Legal Proceedings *3"
- *6. This figure is calculated by multiplying "Total # Missed Work Hours per 100 Employees *5" by "Hourly Wage [Including Benefits] *2"

This figure is again calculated based on a 20-year study of LegalEASE Company usage statistics for large companies with 5,000 or more employees and represents a fairly typical scenario of litigation matters pending in a company of 100 employees.¹¹⁰ Lost work time due to employee absence was calculated using Department of Labor national hourly rate statistics for all employees in the United States. For every 100 employees in any U.S. company, there is an average of two employees embroiled in a contested litigation court battle, and we can determine the associated cost to an employer for the missed work time.

Civil litigation involves a wide range of proceedings — court hearings, discovery, research, consultations, motions, hearings, other requirements — that require an

- security deposit receipts,
- fraudulent warranties and purchases,
- threats of suing or being sued by a contractor,
- property damage claims,
- disputes about easements, or
- other real estate matters.

employee to miss work to defend himself in court. Table 2 shows an analysis of the typical time required by an employee involved in civil litigation.

Using the same analysis as for divorce and probate above, Table 1 shows that missed work by employees on average involved in civil court proceedings costs an employer \$3,493 per 100 employees. Table 2 also details the average number of employees out of 100 employees in any Company that are involved in non-litigation legal matters related to a civil legal matter but without the resources to handle.


There are approximately 9 employees out of every 100 that at any given time are in process of handling one of these legal matters:

Table 2: Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings ⁹⁶

Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings		Caused By:		Caused By:		Caused By:		Total Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings	
		Hearings/Mediations/Office Proceedings	Non-Court Related Consultations	Non-Court Related Consultations	Reviewing Material at Work *4	Total # Missed Work Hours per Affected Employee	Total # Missed Work Hours per 100 Employees *5	Total \$ Missed Work Hours per 100 Employees *6	
Legal Matter	Work Hours Per Day *1	Hourly Wage [Including Benefits] *2	Number of Employees Affected by "Non-Court Filed" Legal Proceedings *3	# Missed Work Hours per Affected Employee	# Missed Work Hours per 100 Employees	# Unproductive Work Hours per Affected Employee	\$ Unproductive Work Hours per 100 Employees	Total # Missed Work Hours per Affected Employee	Total \$ Missed Work Hours per 100 Employees *6
Divorce	8	\$30.11	23	4	\$2,770	12	\$8,310	18	\$12,466
Criminal Matter	8	\$30.11	4	4	\$482	8	\$964	12	\$1,445
Probate an Elder Parent's Estate	8	\$30.11	18	12	\$6,504	18	\$9,756	38	\$20,595
Civil Litigation (Neighbor Dispute)	8	\$30.11	9	10	\$2,710	12	\$3,252	24	\$6,504
Consumer Warranty Problem - Small Claims	8	\$30.11	12	5	\$1,807	5	\$1,807	12	\$4,336
Traffic Ticket/License Suspension	8	\$30.11	6	4	\$723	2	\$361	9	\$1,626
DWI/DUI	8	\$30.11	2	4	\$241	5	\$301	9	\$542
Total Number of Employees Affected by "Non-Court Filed" Legal Proceedings			74	43	\$15,236	62	\$24,750	122	\$47,514

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by "Non Court-Filed Proceedings" Is calculated per 100 employees
- *4. Presenteeism is the number of hours at work but not concentrating causing the employee to be unproductive
- *5. This figure is calculated by multiplying "Total # Missed Work Hours per Affected Employee" by "Number of Employees Affected by Non Court-Filed Legal Proceedings *3"
- *6. This figure is calculated by multiplying "Total # Missed Work Hours per 100 Employees *5" by "Hourly Wage [Including Benefits] *2"



Calculating the cost for missed work time and unproductive (absenteeism) for these types

of legal problems; the average cost per 100 employees is \$ 6,504 per year.

2. Absenteeism Tied to the Initial Search

Table 3¹¹¹ shows the total lost time for the initial search in this category of legal matter is \$10,069 per year per 100 employees. And

remember: This cost is for visits to attorneys that were not able to help the employee.

Table 3: Employer Cost due to Missed Time: Initial Attorney Search

Employer Cost due to Missed Time: Initial Attorney Search										Total Employer Cost due to Missed Time: Initial Attorney Search		
Employer Cost due to Missed Time: Initial Attorney Search										Caused By:		
Employer Cost due to Missed Time: Initial Attorney Search										Visits to Attorneys Unable to Help with Legal Matter		
Legal Matter	Work Hours Per Day *1	Hourly Wage [Including Benefits] *2	Number of Employees Affected by "Court-Filed" Legal Proceedings *3	Number of Employees Affected by "Non-Court-Filed" Legal Proceedings *4	Total Number of Employees Affected by "Court-Filed" + "Non-Court-Filed" Legal Proceedings *5	# Missed Work Days per Affected Employee	# Missed Work Hours per Affected Employee	\$ Missed Work Hours per Employee *6	Total # Missed Work Hours per 100 Employees *7	Total \$ Missed Work Hours per 100 Employees *8		
Divorce	8	\$30.11	4	23	27	3.8	30.4	\$915	821	\$24,714		
Criminal Matter	8	\$30.11	3	4	7	3.8	30.4	\$915	213	\$6,407		
Probate an Elder Parent's Estate	8	\$30.11	2	18	20	3.8	30.4	\$915	608	\$18,307		
Civil Litigation (Neighbor Dispute)	8	\$30.11	2	9	11	3.8	30.4	\$915	334	\$10,069		
Consumer Warranty Problem - Small Claims	8	\$30.11	5	12	17	3.8	30.4	\$915	517	\$15,561		
Traffic Ticket/License Suspension	8	\$30.11	2	6	8	3.8	30.4	\$915	243	\$7,323		
DWI/DUI	8	\$30.11	1	2	3	3.8	30.4	\$915	91	\$2,746		
Total Number of Legal Matters per 100 Employees						26.6	212.8	\$6,407	2,827	\$85,127		

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by 'Court-Filed' Legal Proceedings is calculated per 100 employees
- *4. The number of employees "Affected by Non Court-Filed' Legal Proceedings is calculated per 100 employees
- *5. This figure is calculated by adding "Number of Employees Affected by 'Court-Filed' Legal Proceedings *3" to "Number of Employees Affected by 'Non Court-Filed' Legal Proceedings *4"
- *6. This figure is calculated by multiplying "# Missed Work Hours per Affected Employee" by "Hourly Wage [Including Benefits] *2"
- *7. This figure is calculated by multiplying "# Missed Work Hours per Affected Employee" by "Number of Employees Affected by Court-Filed + Non Court-Filed Legal Proceedings *5"
- *8. This figure is calculated by multiplying "Total # Missed Work Hours per 100 Employees **" by "Hourly Wage [Including Benefits] *2"

3. Healthcare Costs for Stress Related to Civil Litigation Issues

We can also calculate the healthcare costs for treatment and related counseling and physician visits. A recent workforce study, as detailed in Table 4 on the next page, shows that for all stress suffered by employees; there is an average of 5.2 visits to either a physician or a mental health professional for each stress issue suffered.

Table 4 shows the cost of Missed work time for physician or psychiatric visits to treat the stress related to the legal problem is \$3,961 per 100 employees.

All of the missed work employer costs per 100 employees using only the three metrics amounts to losses of \$24,027 per year. See Table 5.

Table 4: Employer Cost due to Missed Time: Visits to Doctor and/or Mental Health Counselor

Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor										Caused By:		
Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor										Visits to Doctor &/or Mental Health Counselor		
Legal Matter	Work Hours Per Day *1	Hourly Wage [Including Benefits] *2	Number of Employees Affected by Court-Filed Legal Proceedings *3	Number of Employees Affected by Non Court-Filed Legal Proceedings *4	Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *5	# Doctor &/or Mental Health Counseling Visits per Stressed Employee	# Missed Work Hours per Stressed Employee per Visit	# Missed Work Hours per Stressed Employee *6	\$ Employer per Stressed Employee *7	Total # Missed Work Hours per 100 Employees *8	Total Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor	
Divorce	8	\$30.11	4	23	27	5.2	2.3	11.96	\$360	323	\$9,723	
Criminal Matter	8	\$30.11	3	4	7	5.2	2.3	11.96	\$360	84	\$2,521	
Probate an Elder Parent's Estate	8	\$30.11	2	18	20	5.2	2.3	11.96	\$360	239	\$7,202	
Civil Litigation (Neighbor) Dispute	8	\$30.11	2	9	11	5.2	2.3	11.96	\$360	132	\$3,961	
Consumer Warranty Problem - Small Claims	8	\$30.11	5	12	17	5.2	2.3	11.96	\$360	203	\$6,122	
Traffic Ticket/License Suspension	8	\$30.11	2	6	8	5.2	2.3	11.96	\$360	96	\$2,881	
DWI/DUI	8	\$30.11	1	2	3	5.2	2.3	11.96	\$360	36	\$1,080	
Total Number of Legal Matters per 100 Employees						36.4	16.1	83.72	\$2,521	1,112	\$33,491	

Assumptions & Definitions

- *1. 8 hours is the average number of hours worked per day
- *2. \$30.11 is an average hourly wage and includes benefits
- *3. The number of employees "Affected by 'Court-Filed' Legal Proceedings" is calculated per 100 employees
- *4. The number of employees "Affected by 'Non Court-Filed' Legal Proceedings" is calculated per 100 employees
- *5. This figure is calculated by adding "Number of employees Affected by 'Court-Filed' Legal Proceedings *3" to "Number of Employees Affected by 'Non Court-Filed' Legal Proceedings *4"
- *6. This figure is calculated by multiplying "# Mental Health Counseling Visits per Stressed Employee" by "# Missed Work Hours per Stressed Employee per Visit"
- *7. This figure is calculated by multiplying " # Missed Work Hours per Stressed Employee *6" by "Hourly Wage [Including Benefits] *2"
- *8. This figure is calculated by multiplying "# Missed Work Hours per Stressed Employee *6" by "Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *5"
- *9. This figure is calculated by multiplying "# Total # Missed Work Hours per 100 Employees *8" by "Hourly Wage [Including Benefits] *2"

Table 5 [Summary of Tables 1-4] – Compilation of Absenteeism Costs

Employer Cost due to Employee Missed Time: All Factors	Total Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings *	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	Total Employer Cost due to Employee Missed Time: All Factors
Legal Matter	\$ Missed Work Hours per 100 Employees *1	\$ Missed Work Hours per 100 Employees *2	\$ Missed Work Hours per 100 Employees *3	\$ Missed Time per 100 Employees *4	Total \$ Missed Time per 100 Employees
Divorce	\$6,263	\$12,466	\$24,714	\$9,723	\$53,166
Criminal Matter	\$2,529	\$1,445	\$6,407	\$2,521	\$12,903
Probate an Elder Parent's Estate	\$5,600	\$20,595	\$18,307	\$7,202	\$51,705
Civil Litigation (Neighbor) Dispute	\$3,493	\$6,504	\$10,069	\$3,961	\$24,027
Consumer Warranty Problem - Small Claims	\$3,011	\$4,336	\$15,561	\$6,122	\$29,030
Traffic Ticket/License Suspension	\$1,325	\$1,626	\$7,323	\$2,881	\$13,154
DWI/DUI	\$753	\$542	\$2,746	\$1,080	\$5,121
	\$22,974	\$47,514	\$85,127	\$33,491	\$189,105

Assumptions & Definitions

- *1. Data from Table 1
- *2. Data from Table 2
- *3. Data from Table 3
- *4. Data from Table 4



4. Cost of Healthcare Visits

As noted previously, the Stress in the Workplace Survey was conducted by Harris Interactive on behalf of the American Psychological Association between January 31 and February 8, 2011. This online study included 1,546 adults ages 18 and older who reside in the United States and are

employed full-time, part-time or self-employed. Using this study with the number of legal matters being handled by employees, Table 6 on the following page shows an annual provider costs per year of \$2,145 per 100 employees for mental health and physician treatment costs.

Table 6: Cost of Employee Visits to Doctor and/or Mental Health Counselor

Cost of Employee Visits to Doctor &/or Mental Health Counselor		Caused By:					Total Cost of Visits to Doctor &/or Mental Health Counselor
		Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *1	Total Number of Employees Receiving Treatment from Doctor &/or Mental Health Counselor *2	# Doctor &/or Mental Health Counseling Visits per Stressed Employee	Average \$ Doctor &/or Mental Health Counselor per Visit *3	Total \$ Doctor &/or Mental Health Counselor Visits per Employee	
Legal Matter							
	Divorce	27	13.5	5.2	\$75.00	\$390.00	\$5,265
	Criminal Matter	7	3.5	5.2	\$75.00	\$390.00	\$1,365
	Probate an Elder Parent's Estate	20	10	5.2	\$75.00	\$390.00	\$3,900
	Civil Litigation (Neighbor) Dispute	11	5.5	5.2	\$75.00	\$390.00	\$2,145
	Consumer Warranty Problem - Small Claims	17	8.5	5.2	\$75.00	\$390.00	\$3,315
	Traffic Ticket/License Suspension	8	4	5.2	\$75.00	\$390.00	\$1,560
	DWI/DUI	3	1.5	5.2	\$75.00	\$390.00	\$585
	Total Number of Legal Matters	93	46.5	5.2	\$75.00	\$2,730	\$18,135

Assumptions & Definitions

- *1. The number of employees is calculated per 100 employees
- *2. This figure is calculated by taking 50% of the number of employees in *1
- *3. \$75 is the approximated amount of a visit to Doctor &/or Mental Health Counselor per employee
- *4. This figure is calculated by multiplying *2 by "Total \$ Doctor &/or Mental Health Counselor Visits per Employee"



5. Prescription Drug Costs

In addition to the actual cost of missed work time, the employer pays higher healthcare and prescription drug costs when employees utilize these benefits to treat the emotional aspects of legal and financial problems. If we use the same analysis here as we used for our divorce issues, Tables 7 on the following

page shows that prescription drug costs average \$4,471 per year per 100 employees.

Combing the figures from Tables 7 and 8, we can see that health care visits and prescription drug cost total \$8,761.

Table 7: Cost of Employees using Prescription Drugs for Stress Related Issues

Cost of Employees Using Prescription Drugs for Stress Related Issues	United States / 2008				Caused By:			Total Cost of Employees Using Prescription Drugs for Stress Related Issues
	Total Prescription Cost x Adults in Workforce		Employees Using Prescription Drugs Specifically for Stress Related Issues			Total Cost of Employees Using Prescription Drugs for Stress Related Issues		
Legal Matter	Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *1	Total \$ Prescription Drugs in US *2	% of US Adult Population Employed *3	Total \$ Workforce Prescription Drugs *4	\$ Prescription Drugs per US Employee per Year *5		% of Workforce Using Prescription Drugs for Stress *6	\$ Prescription Drugs Used for Stress per US Employee per Year *7
Divorce	27	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$10,974
Criminal Matter	7	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$2,845
Probate an Elder Parent's Estate	20	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$8,129
Civil Litigation (Neighbor Dispute	11	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$4,471
Consumer Warranty Problem - Small Claims	17	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$6,909
Traffic Ticket/License Suspension	8	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$3,252
DWI/DUI	3	\$234,100,000,000	41%	\$95,981,000,000	\$1,129	36%	\$406.44	\$1,219
Total Number of Legal Matters	93	\$1,638,700,000,000		\$671,867,000,000	\$7,903		\$2,845	\$37,799

Assumptions & Definitions

- *1. The number of employees is calculated per 100 employees
- *2. Total Prescription Drug Costs in United States / 2008
- *3. 41% is the percentage of American Adults in the workforce / 2008
- *4. This figure is calculated by multiplying "Total \$ Prescription Drugs by "% Adult Population Employed"
- *5 \$1,129 is the calculated amount of prescription costs / employee / year Assuming a workforce of 85,000,000 employees
- *6. 36% of the prescription costs are specifically for stress related issues
- *7. This figure is calculated by multiplying "\$ Prescription Drugs / Employee / Year" by "% Workforce Using Prescription Drugs"
- *8. This figure is calculated by multiplying "Total Number of Employees Affected by "Court-Filed" + "Non-Court Filed" Legal Proceedings *1 " by "\$ Prescription Drugs Used for Stress per US Employee per Year *7"

Table 8: Summary Cost Prescription Drugs & Visits to Doctor and/or Mental Health Counselor for Stress Related to Legal & Financial Issues

Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal & Financial Issues	Total Cost of Visits to Doctor &/or Mental Health Counselor *1	Total Cost of Employees Using Prescription Drugs for Stress Related Issues *2	Total Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal & Financial Issues
Legal Matter	\$ Employees Using Prescription Drugs for Stress per 100 Employees *1	\$ Mental Health Visits [\$75/Visit] *2	Total \$ Time per 100 Employees
Divorce	\$5,265	\$10,974	\$16,239
Criminal Matter	\$1,365	\$2,845	\$4,210
Probate an Elder Parent's Estate	\$3,900	\$8,129	\$12,029
Civil Litigation (Neighbor) Dispute	\$2,145	\$4,471	\$6,616
Consumer Warranty Problem - Small Claims	\$3,315	\$6,909	\$10,224
Traffic Ticket/License Suspension	\$1,560	\$3,252	\$4,812
DWI/DUI	\$585	\$1,219	\$1,804
	\$18,135	\$37,799	\$55,934

Assumptions & Definitions

*1. Data from Table 6

*2. Data from Table 7

6. Total Treatment Costs for Civil Litigation Issues

In Table 9, we can see all of the costs for our three (3) metrics calculated using each of the categories discussed above for all of the civil

litigation and related legal matters per 100 employees. The total cost using our formula is \$30,642.

Table 9-CIVIL LITIGATION DISPUTE: Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor and/or Mental Health Counselor for Stress Related to Legal Matters:

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	\$2,145
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$4,471
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$6,616
Grand Total	\$30,642

F. Combining All of the Major Legal Matters

A Snapshot of the Costs of the Seven (7) Selected Legal Matters

Tables 1-8 all show the same calculations for four other very common legal problems that employees are facing in increasing numbers. Each of these remaining legal matters was subjected to the same analysis as the matters discussed above:

- a criminal proceeding in which one's teenage son is charged,
- a DUI/DWI,
- an out-of-state traffic ticket, and
- a small claims consumer warranty matter.

Table 9 shows all of the stress and productivity costs [the three (3) metrics] related to the stated the seven legal matters.¹¹²

Table 9: Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor and/or Mental Health Counselor for Stress Related to Legal & Financial Issues

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	\$18,135
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$37,799
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$55,934
Grand Total-All 7 Common Legal Matters	\$245,039

Action Item: In determining the real costs of legal and financial matters, employers can make more informed decisions concerning possible solutions to help their employees when these problems strike. In analyzing these solutions, employers can calculate the return on investment of installing solutions to help solve this problem.

Putting this all together, we see the costs of our seven selected legal matters — some complicated, some not — to a typical company. Once we recognize what types of legal matters employees face that ultimately drain company resources because of associated stress, we can create a snapshot of the problem using these legal problems and analyzing their costs to the employer.

It is important for an employer to understand what the mental state of an employee is and

how legal and financial problems may affect the mental state of employees. We have seen a number of studies that demonstrate the serious consequences of employee on the workplace and productivity. By demonstrating that a portion of that stress is directly caused by legal problems, and then proposing solutions to solve or minimize legal problems or stressors, we can help a company lessen its stress-related costs.

G. Additional Aspects of Legal Stress on the Workplace: There is also a strong connection between employee legal and financial problems and the costs of employee stress related to presenteeism.

1. Presenteeism

While it is not the focus of the actual metrics and measurements in this study, there is a correlation between stress associated with legal problems and employee presenteeism.

One of the common problems employees face while involved with a legal problem is the lack of on-the-job focus caused by the legal issue stress.

“Legal issues can cause stress, which in turn, not only may erode an employee’s health, but also his or her work performance. About half of those whose work performance suffered said there were repercussions, with a poor review cited as the leading result. One respondent who reported that his productivity was down about 50 percent said ‘all I could think about were my [legal] issues and getting away from work’.”¹³

Harris Interactive Study

Legal problems are amongst the most debilitating and distracting producers of any type of employee stress. While employees want to focus on their jobs, legal problems — children being taken away from them, a son in jail, contemplating a divorce, receiving a foreclosure notice, threatening bankruptcy — stressful legal disputes and lawsuits loom so large that employees simply cannot focus.

The HR field has given this condition a name: presenteeism, which translates to an employee present at work but not concentrating.

While lengthy, the following explanation explains the effect of employee legal-related stress on presenteeism.

“Move over absenteeism. It seems ‘presenteeism’ has become the far worse workplace culprit in terms of causing loss to U.S. employers; that is, loss of employee productivity and loss of employer dollars. The bottom line: Presenteeism is costing employers more than absenteeism. Presenteeism was coined to define the practice of workers reporting to work when ill and not operating to their usual level of productivity. The total cost of presenteeism to U.S. employers has been increasing, and estimates for current losses range from about \$150 to \$250 billion annually. Costs for presenteeism are about 60 percent of the total cost of worker illness...In 2004, the Harvard Business Review reported on a study conducted by researchers at Tufts-New England Medical Center in Boston. The study assessed the impact of twenty-eight medical conditions on workers’ productivity at Lockheed Martin Corp. The findings showed that employees who came to work sick that year — with ailments such as allergies, headaches, lower-back pain, arthritis, colds and the flu — set the company back about \$34 million.”¹⁴

This lack of focus can be devastating to a company when the employees in the legal problem are in key positions:

- personnel responsible for bids,

- purchasing,
- accounting,
- manufacturing,
- heavy equipment operators, or
- jobs with an element of danger.

When employees performing these tasks make mistakes, it can cost a company dearly in terms of:

- injuries,
- wrong bid pricing,
- wrong purchases, and
- accidents.

Consider this scenario in which the absence of employee focus is costly to a business. A delivery employee that must contest a license suspension or actually loses his driver's license will be unable to fulfill his duties and miss deliveries. The company cannot permit the employee to continue in that position because of the danger and liability of encouraging the worker to drive on a suspended license. The employer must suspend, re-assign or terminate the employee from the delivery job and fill the

position with a new employee, often in a quicker-than-normal manner.

In addition to missed work time attempting to have the license suspension overturned or vacated, the employee will likely have late-for-work issues or last minute no-shows. As noted above, courts and the legal system are not designed to accommodate employee schedules, and being forced into court in a potentially embarrassing private matter causes real problems for employees that have no choice but to miss work.

2. Effects of Employee Stress Related to Handling Legal Issues for Elder Parents

Another example of how this problem reaches further than our original metrics and

costs employers is that of an employee taking care of the affairs of elderly parents.

INNOVATION CHECKS

- ✓ According to a recent study by MetLife, nearly 10 million adult children over the age of 50 years are caring for aging parents.
- ✓ Also according to the study, these adult children caregivers are losing almost \$3 trillion in lost wages, pension and Social Security benefits in the aggregate due to their caregiving efforts.

The MetLife study's key findings are staggering. The percentage of adult children providing personal care and/or financial assistance to parents has tripled over the last 15 years. It is estimated that a one-quarter of adult children, primarily baby boomers, provide basic care or financial assistance for their parents at a time when they themselves

are aging and should be saving for their own retirements.¹¹⁵

In addition to a lack of focus at work and increased stress brought into the workplace, caring for an elderly parent can result in confusing financial and legal issues and

place significant demands on an employee's time:

- repeated nursing home admissions processes;
- Alzheimer parent visitation days;
- medical appointments for elderly parents who cannot drive;
- selling a parent's home or moving a parent into an assisted living facility or nursing home;
- handling legal documents;
- getting a parent's estate planning documents in place;
- handling urgent financial issues;
- managing an elder parent's post-recession mortgage and income problems; and
- grappling with post-recession losses in retirement savings and the ensuing uncertainty.

Many of the needs of the elder parent can be last-minute items that require significant time off from work, late-for-work issues or a loss of focus. Finding an out-of-state attorney in an elder parent's neighborhood can waste even more than the usual amount of initial search time and may require plane trips and multi-day time off scenarios.

Additionally, older parents can be in dire need of financial management or advice for debt, credit or identity theft issues, and it's not uncommon for an elderly parent to have trouble managing money.

INNOVATION CHECK

- ✓ An estimated 500,000 older people in the United States need help with their financial affairs.

A new field is evolving for daily money management services on a fee-for-service

basis. Financial counselors now offer a variety of services:


- organizing and keeping track of financial and medical insurance records,
- establishing a budget, and
- assisting with check writing and checkbook balancing.

Many financial planners do not provide financial counseling or debt counseling services; rather they focus on investment choices. Many employees mistakenly believe that financial planners are needed for debt, credit and collection agency problems when they actually need financial counseling and debt/credit management services. Unfortunately, many people do not find the right help until after a crisis, such as a threatened eviction or utility cut-off. And many employees have a difficult time

determining whether the elder parent for whom they are caring can access and afford the resources of reputable assistance.

Companies benefit from a better understanding of how legal problems affect employees, how employees misunderstand the legal system, how misunderstanding the system can create huge gaps in expectations and how disruptive litigation can be for employees.

Action Item: Understanding the potential for disruption is key for HR managers.



Such disruption may be limited to inconvenience or mild discomfort, but it can also go to the heart of a family's structure, creating serious problems that lead to missed work, lack of attention and focus while at work, serious accidents and injuries

and the loss of a valuable employee. The good news is that there are measures and programs available to HR that can help decrease accidents and healthcare usage and associated costs, and increase productivity.

Footnotes

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

2/ Id., p. 6.

Unhealthy lifestyles

- Employees with four lifestyle risk factors (sedentary, >>overweight, smoker, high alcohol intake) are absent over 50% more often than those without the risk factors, and cost 2-3 times more in health costs.²¹
- Employers pay an extra \$597/year for each employee >>who consumes excessive amounts of alcohol.²²
- Employers pay an extra \$488/year for every sedentary >>employee.²³
- Every smoker costs a company \$2500/year.>>²⁴
- There is a linear relationship between obesity and >>number of workers' compensation claims, lost workdays, medical claims costs and indemnity claims costs.²⁵
- The total cost of obesity to Canadian employers is >>\$1.3 billion per year.²⁶
- Obese employees spend about 35% more on health >>services and 77% more on medications than people of healthy weight.²⁷
- Telus Mobility estimated that each health risk factor >>(e.g., smoking, obesity, etc.) costs their organization about \$2000 per employee per year.

3/ Stress in the Workplace: A Costly Epidemic, By Rebecca Maxon. Retrieved from

<http://www.fdu.edu/newspubs/magazine/99su/stress.html>

4/ Employers Not Measuring ROI on Wellness Programs, Kathryn Mayer, Benefits Selling Magazine, April 5, 2012.

5/ Id.

6/ Employers save big on wellness programs, Benefits Selling Magazine, Kathryn Mayer, and September 5, 2012.

7/ Employees hitting higher rates of presenteeism, Benefits Selling Magazine, Amanda McGrory-Dixon, October 30, 2012.

8/ Id.

9/ Employers save big on wellness programs, Benefits Selling Magazine, Kathryn Mayer, and September 5, 2012.

10/ Id.

11/ Economic Squeeze – the Recession's Impact on Behavioral Health, Christina Reardon, Social Work Today, Vol. 9, p.12.

12/ Employee Financial Stress is Costing Your Company a Bundle, Financial Literacy Partners, 2005.

13/ "Foreclosure Filings in U.S. May Jump 20% from Record 2010 as Crisis Peaks." Retrieved from <http://www.bloomberg.com/news/2011-01-13/u-s-foreclosure-filings-may-jump-20-this-year-as-crisis-peaks.html>

14/ Id.

15/ Id.

16/ 10th Annual Study of Employee Benefits, (2012) MetLife, p. 38

17/ AARP Public Policy Report 2012. http://www.aarp.org/content/dam/aarp/research/public_policy_institute/econ_sec/2012/The-Employment-Situation-January-2012-AARP-ppi-econ-sec.pdf

18/ Id.

19/ Id.

20/ Id.

21/ Jenny Ivy, managing editor for BenefitsPro.com. She can be reached at jivy@benefitspro.com

22/ The Business Case for a Healthy Workplace, © IAPA (Industrial Accident Prevention Association) 2008, p. 4.

23/ Id., p. 6.

24/ Id.

25/ Bureau of Labor Statistics, Economic Situation Summary, Nov. 6, 2009, available at

<http://www.bls.gov/news.release/emp/sit.nr0.htm>

26/ A. Spurgeon, C.A. Jackson and J.R. Beach, Institute of Occupational Health, 2000. Their study referencing Holmes and Rahe study is "The Life Events Inventory: re-scaling based upon an occupational sample."

27/ Id.

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

29/ Encyclopedia Britannica, "The Great Recession of 2008–09: Year in Review 2009."

30/ Robert W. Murphy, "Taming the Collection Tempest": A Primer on Federal and State Restraints on Consumer Debt Collection, Practising Law Institute Seminar (Mar. 26, 2009).

31/ Juan Lagorio, Capital One Credit Card Defaults Rise in September, Reuters (Lisa Von Ahn ed.), Oct. 15, 2009, available at

<http://www.reuters.com/article/businessNews/idUSTRE59E25820091015>

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

33/ "What Are Frivolous Lawsuits?" January 17, 2010, Frivolous Lawsuit Information, Joseph Devine

34/ "Pay Garnishments Rise as Debtors Fall Behind," New York Times, John Collins Rudolf, April 1, 2010

35/ "Due Process and Consumer Debt: Eliminating Barriers to Justice in Consumer Credit Cases," 2010, New York Appleseed, and Jones Day Study, p.1

36/ Id.

37/ Legal Access Case Records, (true names withheld to protect confidentiality) 2012.

38/ 10th Annual Study of Employee Benefits, (2012) MetLife, p. 41.

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

40/ The Greatest Retirement Crisis in American History Edward "Ted" Siedle, Contributor 3/20/2013.

41/ 9th Annual Study of Employee Benefits, (2011) MetLife.

42/ Retrieved from Health and Personal Finances, The Personal Finance Employee, 2009, Education Foundation, (<http://www.personalfinancefoundation.org/research/hpf.html>).

43/ 9th Annual Study of Employee Benefits, (2011) MetLife.
44/ Id., p. 39.
45/ Id.
46/ Id.
47/ "APA Survey Finds Many U.S. Workers Feel Stressed Out and Undervalued," Harris Interactive Study, March 8, 2011
48/ "Onto Death as We Part: The Impact of Divorce on Employee Wellness," Jason Krausert and Donna Tosky, Sep 4, 2009, Corporate Wellness Magazine.
49/ Quote from Anne-MarieDorniing@bostonannemarie, ABC News, July 2, 2007
50/ "It's Not Just Money Fears Blocking Access to Legal Help; Lawyer Distrust Is Growing," Posted Dec 1, 2012 3:20 AM CDT, By Rachel M. Zahorsky.
51/ Nancy Kay, Moving Forward Through Divorce. February 12, 2012.
52/ "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.
53/ "Public Perceptions of Lawyers Consumer Research Findings," American Bar Association Study, 2002.
54/ "What Are Frivolous Lawsuits?" January 17, 2010, Frivolous Lawsuit Information, Joseph Devine
55/ "Causes and Consequences of Lengthy Court Delays," Sarah Foltz, Yahoo! Contributor Network, July 2, 2009.
56/ "Public Perceptions of Lawyers Consumer Research Findings," American Bar Association Study, 2002.
57/ Id.
58/ Id.
59/ Legal Access Plans, L.L.C., 2012 Internal Study.
60/ eNotes, "How to find an attorney". Source: Encyclopedia of Everyday Law, ©2003 Gale Cengage.
61/ Id.
62/ "Transamerica Study Illuminates Severe Impact of Unemployment on Displaced Workers' Retirement Outlook," 2011, Transamerica Center for Retirement Studies®.
63/ "What To Expect From an Angry Ex-Spouse During Divorce Settlement Negotiations," By Cathy Meyer, About.com.
64/ "How Do People Find and Hire Attorneys?" By Gyi Tsakalakis on April 30, 2013, <http://lawyernomics.avvo.com/legal-marketing-2/how-do-people-find-hire-attorneys.html>
65/ American Psychological Association Practice Organization. (2010), "Psychologically Healthy Workplace Program Fact Sheet: By the Numbers," Retrieved from http://www.phwa.org/dl/2010phwp_fact_sheet.pdf.
66/ "Public Perceptions of Lawyers Consumer Research Findings," American Bar Association Study, 2002.
67/ "How Do Lawyers Get Away With This Stuff?", Jennifer Walzer, April 26, 2010, New York Times, Small Business Day, Thursday, May 2, 2013
68/ Legal Access Plans, L.L.C., 2013 Internal Study Client Interviews.
69/ Id.
70/ "Lawyers are Counselors, Too: Social Workers can Train Lawyers to More Effectively Counsel Clients," Stephanie K. Boys, Carrie A. Hagan, Valerie Voland, ADVANCES IN SOCIAL WORK, Fall 2011, 12(2).
71/ Legal Access Plans, L.L.C., 2012 Internal Study Client Interviews.
72/ "How to Avoid Firing Your Lawyer," By Eric J. Parker, Parker Scheer LLP RSDSA Review. Fall 2007.
73/ "Choosing an Attorney to Represent Me: What Do I Look For?"
http://law.freeadvice.com/general_practice/general_practice/what-to-look-for-in-lawyer.htm.
74/ "Why Lawyers Are Bad at Client Service," posted on September 20, 2012, by Allison Shields, <http://lawyer meltdown.com/why-lawyers-are-bad-at-client-service.html>.
75/ Id.
76/ Retrieved from <http://www.cala.com/>.
77/ Retrieved from http://www.legalreform-now.org/menu3_4.htm.
78/ "Courts Are Getting backlogged," By Fell Sawday, Jeff Sawday's Legal Elephant, February 11, 2010.
79/ Harris Interactive Study, "Quantifying the Workplace Impact of Employees' Personal Legal Matters,"2011.
80/ "High Stress Levels Cost Money," according to the Journal of Occupational and Environmental Medicine, <http://paxmassage.com/201002-stress-costs-money.php>.
81/ Families and Work Institute in New York, Jan, 2007.
82/ "CCH Unscheduled Absence Survey", 2002, CCH, Inc..
83/ "The New Sciences of Mind and Body" (September 27, 2004), Newsweek Magazine.
84/ "High Stress Levels Cost Money," <http://paxmassage.com/201002-stress-costs-money.php>, February 2010 Newsletter Article...
85/ "Job Stress and Healthcare Cost Data", <http://meditationscience.weebly.com/job-stress-and-healthcare-cost-data.html>.
86/ "Attitudes in the American Workplace VII Report," 2001, created by the Marlin Company and The American Institute of Stress.
87/ 10th Annual Study of Employee Benefits, (2012) MetLife.
88/ Id.
89/ 9th Annual Study of Employee Benefits, (2011) MetLife.
90/ Id.
91/ Id.
92/ Legal Access Plans, L.L.C., 2012 Internal Study.
93/ Harris Interactive Study, "Quantifying the Workplace Impact of Employees' Personal Legal Matters,"2011.
94/ Legal Access Plans, L.L.C., and 1993-2013 Internal Study of Client Usage Patterns.
95/ Id.
96/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014. (Reprinted as Table 2 here).
97/ Legal Access Plans, L.L.C., Internal Study, "Attorney Search Patterns, .2012
98/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014

- 99/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014 (reprinted as Table 3 here).
- 100/ The Business Case for a Healthy Workplace, © IAPA (Industrial Accident Prevention Association) 2008.
- 101/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014 (reprinted as Table 6 here).
- 102/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014 (reprinted as Table 7 here).
- 103/ The Business Case for a Healthy Workplace, © IAPA (Industrial Accident Prevention Association) 2008.
- 104/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014 (reprinted as Table 8 here).
- 105/ Legal Access Plans, L.L.C., and 1993-2012 Internal Study of Client Usage Patterns
- 106/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014 (reprinted as Table 1 here).
- 107/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014 (reprinted as Table 2 here).
- 108/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014 (reprinted as Table 3 here).
- 109/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014 (reprinted as Table 8 here).
- 110/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014 (reprinted as Table 1 here).
- 111/ Legal Access Plans, L.L.C., Internal Study, "Attorney Search Patterns, 2012.
- 112/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2014 (reprinted as Table 9 here).
- 113/ Harris Interactive Study, "Quantifying the Workplace Impact of Employees' Personal Legal Matters,"2011.
- 114/ The Hidden Costs of Presenteeism: Causes and Solutions, Patricia Schaefer, <http://www.businessknow.com/manage/presenteeism.htm>,2011.
- 115/ The MetLife Study of Caregiving Costs to Working Caregivers: Double Jeopardy for Baby Boomers Caring for Their Parents, was reported in Elder Law Answers (www.elderlawanswers.com).

