

## HOW TO RECOVER FOR MENTAL INJURIES UNDER THE ALABAMA WORKERS' COMPENSATION LAW

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For an employee to recover for psychological or mental injuries, the employee must have suffered a physical injury to the body and the physical injury must be a proximate cause of the psychological injury. The test to be applied is the “*contributing cause standard*.” *Ex parte Vongsouvanh*, 795 So.2d 625 (Ala. 2000); *CVS Corporation, Inc. v. Frances Smith*, 981 So.2d 1128 (Ala.Civ.App. 2007). The physical injury does not have to be the sole proximate cause. To establish medical causation between the physical injury and the mental disability, the employee need only show that the physical injury was a factor contributing to the mental injury. A preexisting mental condition or disposition to mental injury does not affect the award or compensation as long as the physical injury activates it or precipitates symptoms. *Taylor v. Mobile Pulley and Machinery Works, supra*. The court applied this rule to award compensation in *Federal Mogul Corp. v. Campbell*, 494 So.2d 443 (Ala.Civ.App. 1986). In *Federal Mogul Corp. v. Campbell, supra*, the claimant was a mentally challenged individual who suffered a severe trauma during birth, causing retardation. When he fell at work in a concrete ditch, he suffered only minor physical injury, but experienced a complete emotional and mental breakdown. The claimant had always been mentally slow, but his personality changed following the accident. He was diagnosed as a schizophrenic. A psychological expert testified that the fall at least contributed to the mental condition, along with preexisting mental frailties. Based on the law and the expert testimony, the court awarded benefits for permanent and total disability.

Medical causation of a mental injury may be supplied in a doctor’s deposition. The doctor needs to testify that the pain and the resulting problems that come from the physical injury at work contributed to exacerbate or made the psychiatric problems worse or that the mental problems partly stem from the physical injury at work. The doctor may also testify that the physical injury contributed to and increased the severity of the mental problems.

If you claim that you are disabled because of mental impairments from an on-the-job injury, the Judge will want to know about how the mental condition affects your:

- ability to use good judgment;
- ability to maintain attention and concentration;
- ability to follow work rules;
- ability to understand, remember, and carry out job instructions;
- ability to relate to co-workers;
- ability to function independently;
- ability to demonstrate reliability;
- ability to deal with the public;
- ability to deal with work stresses;
- ability to behave in an emotionally stable manner;
- ability to interact with your supervisor; and
- ability to relate predictably in social situations.

A mental assessment from your therapist, psychiatrist, counselor, or psychologist will be important as to how your ability to work is affected by each of these mental impairments. The degree of each impairment can be severe, mild, or moderate. The probability of winning Total Disability under Alabama Workers' Compensation Law increases if you have several severe mental impairments.

There are several impairments that correspond to specific mental health conditions or diagnoses. Affective Disorders and Anxiety Disorders are the most frequently seen. Affective Disorders include Depression and Bipolar Disorder. Five different conditions comprise Anxiety Disorders. This includes Generalized Anxiety Disorders, Phobia Disorders, Panic Disorders, Obsessive Compulsive Disorders, and Post-traumatic Stress Disorder (PTSD).

It is important for those with mental impairments to have a Workers' Compensation attorney to help prove disability. Please ask for a free case evaluation if you want help in proving that your mental impairment is severe enough to receive Total Disability benefits under the Alabama Workers' Compensation Law.