

IPPFA REGIONAL SEMINAR

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**DISSECTING MENTAL
DISABILITY CLAIMS**



IPPEFA

PREPARE PROTECT EDUCATE INFORM

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PGM
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TIME TO NETWORK



Jerry says to say “hello”



LINE OF DUTY DISABILITY PENSIONS

- POLICE
 - 40 ILCS 5/3-114.1
 - “...as the result of sickness, accident or injury **incurred** in or resulting from the performance of an **act of duty**...”
- FIRE
 - 40 ILCS 5/4-110
 - “...as a result of sickness, accident or injury **incurred** in or resulting from the performance of an **act of duty** or the cumulative effects of acts of duty...”

WHO HAS THE BURDEN OF PROOF?



MENTALLY DISABLED?



“ACT OF DUTY” – FIRE

- “Any act imposed on an active fireman by the ordinances of a city, or by the rules or regulations of its fire department, or any act performed by an active fireman while on duty, having for its direct purpose the saving of the life or property of another person.”
- 40 ILCS 5/6-110
- *Jensen v. East Dundee Fire Protection District Firefighters’ Pension Fund Board of Trustees*, 362 Ill. App. 3d 197 (2d Dist. 2005).

INTERPRETATION

- *O’Callaghan v. Retirement Board of Firemen’s Annuity and Benefit Fund of Chicago*, 302 Ill. App. 3d 579 (1st Dist. 1998)
- “...having for its direct purpose the saving of the life or property of another person” *ONLY MODIFIES* “an act performed by an active fireman while on duty.”

“ACT OF DUTY” – POLICE

- “Any act of police duty inherently involving special risk, not ordinarily assumed by a citizen in the ordinary walks of life, imposed on a policeman by the statutes of this State or by the ordinances or police regulations of the city in which this Article is in effect or by a special assignment; or any act of heroism performed in the city having for its direct purpose the saving of the life or property of a person other than the policeman.”
- 40 ILCS 5/5-113



“CAPACITY”

- Do NOT look at the mechanism of injury
- Does NOT have to be inherently dangerous activity
- Rather you look to determine what “CAPACITY” the police officer was acting at the time of his or her disabling injury.
- *Johnson v. Retirement Board of Policemen’s Annuity and Benefit Fund of the City of Chicago*, 114 Ill. 2d 518 (1986).

ALM



SARKIS



MERLO



JONES



WHITE

PARKING VIOLATION			
NOTICE This vehicle is improperly parked. Violations are as follows:			
<input type="checkbox"/> Vehicle has no valid Parking Permit			<input type="checkbox"/> Blocking Driveway or Access
<input type="checkbox"/> Parked in No Parking Area / Space			<input type="checkbox"/> Blocking other Vehicle
<input type="checkbox"/> Parked in Fire Lane			<input type="checkbox"/> Parked in 2 Spaces
<input type="checkbox"/> Parked in Handicap Space			<input type="checkbox"/> Other _____
<input type="checkbox"/> Parked in Reserved or Assigned Space			
This vehicle's description has been permanently recorded. Any additional infractions of our regulations could result in towing at vehicle owner's expense and revocation of parking privileges.			
License No. _____	State _____	Permit No. _____	Date _____
Vehicle Make / Model _____		Color _____	Time _____
Driver's Name (if known) _____			Location _____
			Issued by _____

Violation _____			
License Plate No. _____		State _____	Permit No. _____
Vehicle Make/Model _____			Color _____
Date _____	Time _____	Location _____	Issued By _____

FEDORSKI



SUMMERS



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CAUSATION

- **GENERAL RULES FOR PHYSICAL DISABILITY CLAIMS:**
- Does NOT have to be the sole or primary cause
- Exacerbates a pre-existing condition
- Causes or contributes to the disability
- Very **LIBERAL** standard

**Line of Duty Mental
Disability Claims
Are A Little
Different... WHY?**

Olson v. Wheaton Police Pension Board, 153 Ill. App. 3d 595 (2d Dist. 1987)

- Mentally Disabled From:
 - 1. Conflicts with supervisors
 - 2. Facing internal discipline
 - 3. Differences in management style
- “Civilians regularly suffer stress in their employment resulting from conflicts with their superiors, complaints that are filed against them in connection with their jobs, and the assignment of tasks which they deem unsuitable for their positions.”
- Affirmed denial of LOD claim.

Wall v. Schaumburg Police Pension Board, 178 Ill. App. 3d 438 (1st Dist. 1988)

- Mentally Disabled From:
 - 1. No longer wanted to accept responsibility for handling other peoples' lives
 - 2. Pressure of dealing with the public
 - 3. "I can't handle it anymore; this is bullshit; I'm trying to do my job, and now this lady is going to come in and beef; now I've got to go through an internal investigation; I can't handle it any more"

Wall v. Schaumburg Police Pension Board

- Adopted *Olson* and held that complaints common to any type of employment failed to establish the necessary causal connection between disabling stress and an act of duty.
- Affirmed denial of LOD disability

Batka v. Orland Park Police Pension Board, 186 Ill. App. 3d 715 (1st Dist. 1989)

- Mentally Disabled from:
 - 1. Excessive work load
 - 2. Disagreements with Chief, supervisor criticism, and insensitive comments
 - 3. Resentment towards less senior officers
 - 4. Drowning of a 2 year old
 - 5. Divorce

Batka v. Orland Park Police Pension Board

Demeaning job assignments, the negative image of police in the public's eye, the intense pressure caused both from the responsibilities and heavy workload of an officer, the tendency towards physical violence on the job, marital difficulties, and alcohol or drug abuse as a result of job stress are NOT specific “acts of duty” unique to police officers

Affirmed denial of LOD disability pension

Ryndak v. River Grove Police Pension Board, 248 Ill. App. 3d 486 (1st Dist. 1993)

- Mentally Disabled From:
 - 1. 22 years as a police officer
 - 2. Been shot at
 - 3. Seen people beaten
 - 4. Seen people die in car accidents
 - 5. Saw fellow officer die in front of him
 - 6. Named as defendant in lawsuit
 - 7. No support from administration

Ryndak v. River Grove Police Pension Board

- Stress and depression claimed as the result of violent nature of police duties are “problems related to the general nature of being a police officer, and not by a specific act of police service.”
- Being named as a defendant in a civil lawsuit, receiving little support from superiors, and seeing a coworker die of a heart attack are not circumstances unique to police work.
- Conflict in the evidence
- What if no conflict in the evidence?
- Affirmed denial of LOD disability claim

Trettenero v. Aurora Police Pension Board, 268 Ill. App.3d 58 (2d Dist. 1994)

- Mentally Disabled From:
 - 1. Perceptions and feelings of unfair treatment.
 - 2. Being named as a defendant in a civil lawsuit which stemmed from the beating of a prisoner
- Do not satisfy LOD standard as a matter of law.
- Cited *Ryndak* for the principle that stress or depression as a result of the violent nature of police duties are problems related to the general nature of being a police officer.
- Affirmed denial of LOD disability pension

Robbins v. Carbondale Police Pension Board, 177 Ill. 2d 533 (1997)

- Mentally Disabled from:
 - 1. Supervisor's criticism
 - 2. Anxiety about younger officers
 - 3. Witnessed a suicide
- Supreme Court held that the case involved a “dispute over the source of the police officer's disabling stress”
- Agreed with *Ryndak*, *Olson*, *Wall*...
- These general rules are an outgrowth of judicial attempts to define and apply the term “act of duty” to cases involving claimed psychological disabilities”

Robbins v. Carbondale Police Pension Board

- Rejected “causative factor” test for mental disability claims
- Disabling injury must result from the performance of an “act of duty”
- “Ample evidence that stress was the result of his anxiety over his job performance, which civilians regularly suffer, and not the performance of a specific act of duty.”
- Affirmed denial of LOD disability pension

Knight v. Village of Bartlett, 338 Ill. App. 3d 892 (1st Dist. 2003)

- Worked for Metropolitan Enforcement Group and encountered numerous dangerous situations
- Also had a confrontation with supervisors
- All doctors (except 1) concluded that the police officer was disabled and that it resulted from duty as a police officer
- Board denied both a line of duty and not on duty disability pension even though it found that the officer suffered from a “psychological problem related to employment issues” and “had a severe personality problem that made him unfit to return to duty”

Knight v. Village of Bartlett

- Even dissenting doctor concluded the police officer had “quite severe psychological problems” and had a “lack of fitness for duty” therefore DISALBED
- “Ample evidence that plaintiff’s stress was the result of his undercover police work in MEG”
- Reversed denial of LOD disability pension
- Anomaly?
- Angry at the Pension Board?

Coyne v. Milan Police Pension Board, 347 Ill. App. 3d 713 (3d Dist. 2004)

- Mentally Disabled from:
 - 1. A severe car accident in which he was struck by a drunk driver.
 - 2. Altercation with teen wielding a knife
 - 3. Rescuing motorist trapped in car
 - 4. Drowning and suicides
 - 5. CPR and hand penetrated victim's chest

Coyne v. Milan Police Pension Board

- Mental disability “...resulted from the cumulative effect of traumatic duties he performed over his career as a police officer. The medical evidence shows that no specific act of his employment cause the disorder; rather, he developed problems over time in response to stressful work-related situations.”
- Affirmed denial of LOD disability claim

Graves v. Pontiac Firefighters' Pension Board, 281 Ill. App. 3d 508 (4th Dist. 1996)

- Mentally Disabled due to Anxiety from:
 - 1. Increasing demands as an EMT
 - 2. Unsuccessfully used a defibrillator and the patient died.

Graves v. Pontiac Firefighters' Pension Board

- “General job dissatisfaction or job stress arising from the inability to handle general duties does not give rise to a duty related disability claim.”
- “stress or depression resulting from general employment functions inherent in the occupation and common to all firefighters [is] not the equivalent of the specific acts of duty contemplated by the statute.”
- cited to the Workers’ Compensation Act and noted that “...job induced anxiety, stress, or depression resulting in a mental disorder which developed not from a specific traumatic event, but from conditions of the workplace to which all employees are subject” is not compensable.

Hammond v. Naperville Firefighters' Pension Board, 369 Ill. App. 3d 294 (2d Dist. 2006)

- Shortness of breath while pulling hose at fire in 2001
- Shortness of breath during ambulance call in 2001
- Disciplined by FD in 2002 for making inappropriate comment
- Anxiety while delivering a baby
- Placed on administrative leave and sent for fitness for duty evaluation
- Returned to duty. Suffered panic attack during training exercise in 2002.

Hammond v. Naperville Firefighters' Pension Board

- 2 doctors attributed disability to the cumulative effects of acts of duty
- 1 doctor did not attribute disability to cumulative effects of acts of duty
- “Assuming for the sake of argument that—contrary to *Graves*—a line-of-duty disability pension may be awarded for a disability caused by general occupational pressures, the Board's decision here still was not clearly erroneous. Although plaintiff may have experienced severe stress on the job, the Board apparently was persuaded by evidence that plaintiff's duties merely *triggered symptoms* of one or more disorders rooted in non-occupational sources”

Hammond v. Naperville Firefighters' Pension Board

- In other words, “although plaintiff may have suffered acute stress in certain occupational situations, the underlying causes were external to, and independent of, his duties as a firefighter/paramedic”

AT THE END OF THE DAY





**THE
END**