To What Extent are Employees Barred From Pursuing Stress Claims in Court?



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Historically, workers' compensation law placed a highly restrictive definition on traumatic mental stress injuries, which meant as a practical matter very few stress claims would ever be allowed. However, successful litigation advanced primarily by workers under the equality provisions of the Charter of Rights and Freedoms altered the legal landscape with respect to the treatment of stress claims by Ontario's WSIB. Subsequent legislative and WSIB policy changes made it significantly easier for workers to get entitlement to WSIB benefits for mental stress injuries under the WSIA. This expansion of entitlement opened the backdoor for employers to argue that civil lawsuits relating to work related stress should be punted to the workers' compensation system. The "historic tradeoff" that underpins that system in every province, is that workers give up their right to sue for damages for personal injury in exchange for access to an employer funded benefit scheme. The legal question that arises from the broadening entitlement to WSIB benefits for stress is: to what extent are employees barred from pursuing stress claims in court?
Ryan Conlin is a partner with Stringer LLP and practices primarily in the area of regulatory and employee law. Ryan is a frequent speaker and writer and has given presentations to a number of legal organizations, employers and human resources groups. His vast experience includes:

1. Advising and acting for employers and individuals charged with contraventions of the Occupational Health and Safety Act and the Environmental Protection Act
2. Occupational Health and Safety Act and the Environmental Protection Act
3. Providing pro-active advice on OH&S and environmental matters
4. Assisting employers with a range of workers' compensation issues
5. Litigation before the WSIB and WSIAT, claims management, independent operator issues and revenue matters
6. Defending professional discipline cases
7. Assisting employers with all facets of employment related immigration