COMPENSABLE SUICIDE—IS *SPONATSKI* OUT AND CHAIN OF CAUSATION IN?

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An employee's death is compensable[1] under the Iowa Workers' Compensation Act[2] ("Iowa Act") when the death is caused by a personal injury or occupational disease arising out of and in the course of employment.[3] Once an injury has occurred, the employer or the employer's insurance carrier becomes liable "for all consequences that naturally and proximately flow from the accident."[4] Sometimes the natural and proximate consequence is death.[5]

The Iowa Act[6] provides a number of defenses to defendants.[7] For exam-

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1. *See generally* J. LAWYER & J. HIGGS, IOWA WORKERS' COMPENSATION LAW & PRACTICE ch. 14 (1984).

2. IOWA CODE chs. 85, 85A, 85B, 86, 87 (1989).

3. Crowe v. DeSoto Consol. School Dist., 246 Iowa 402, 405, 68 N.W.2d 63, 65 (1955).

4. Oldham v. Schofield & Welch, 222 Iowa 764, 767-68, 266 N.W. 480, 482 (1936).

5. Eveland v. Newell Const. & Mach. Co., 236 Iowa 204, 17 N.W.2d 524 (1945) (heart failure was contributed to by osteomyelitis, which grew out of back injury three years earlier).

6. IOWA CODE chs. 85, 85A, 85B, 86, 87 (1989).

7. *E.g.*, IOWA CODE § 85.71 (1989) (lack of jurisdiction); George H. Wentz v. Sabasta, 337 N.W.2d 495 (Iowa 1983); Iowa Beef Processors, Inc. v. Miller, 312 N.W.2d 530 (Iowa 1981); IOWA CODE § 85.61(3)(b) & (c) (1989) (no employer/employee relationship); McClure v. Union County, 188 N.W.2d 283 (Iowa 1971); Nelson v. Cities Serv. Oil Co., 259 Iowa 1209, 146 N.W.2d 261 (1966); IOWA CODE §§ 85.23-85.25 (1989) (failure to give notice); Robinson v. Department of

ple, section 85.16(1) of the Iowa Code prohibits the allowance of compensation to an employee whose injury is caused by "the employee's willful intent to injure the employee's self or to willfully injure another."[8] Even though individual states enact their own unique workers' compensation laws, prohibition against compensation for intentionally inflicted injury is a common feature. This statutory provision provides the first line of defense in a suicide case. The death cannot arise out of and in the course of employment when the worker is the cause of the injury, rather than the work itself. The issue becomes whether the death was proximately caused by a compensable injury or whether the suicide was caused by the worker's own willful act, which constituted an independent, intervening cause.

I. Standards for Compensable Suicide

When the Iowa Supreme Court last considered whether or not a death from suicide would be compensable in *Schofield v. White*,[9] the court purported to follow what has become the minority rule, by requiring the surviving spouse to prove that "the mental condition of . . . decedent at the time of the suicidal act was such that he was motivated by an uncontrollable impulse, or in a delirium of frenzy, without conscious volition to produce death."[10] Whether or not the court followed that standard is questionable.[11] In light of expanding knowledge in the mental health field, changing religious views on suicide, and developing case law from other jurisdictions,[12] there is cause to wonder if the Iowa Supreme Court would choose to apply that standard if the court was faced with a similar case today.

The rule which the court applied in *Schofield* originated in the case of In re *Sponatski*.[13] Even though *Sponatski* was a workers' compensation case, the Massachusetts court used the rationale from a prior tort case, *Daniels v. New York, New Haven, & Hartford Railroad*.[14] The court in *Sponatski* made a distinction between compensable and the noncompensable cases. The case in which the decedent, as a result of a physical injury, suffered a

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Transp., 296 N.W.2d 809 (Iowa 1980); Iowa Code § 85.26 (1989) (statute of limitations); Whitmer v. International Paper Co., 314 N.W.2d 411 (Iowa 1982); Orr v. Lewis Cent. School Dist., 298 N.W.2d 256, 261 (Iowa 1980); Iowa Code § 85.16(2) (1989) (intoxication); Lamb v. Standard Oil, 250 Iowa 911, 96 N.W.2d 730 (1959); Reddick v. Grand Union Tea Co., 230 Iowa 108, 296 N.W. 800 (1941); Iowa Code § 85.16(3) (1989) (willful act of a third party); Cedar Rapids Community Schools v. Cady, 278 N.W.2d 298 (Iowa 1979); O'Callahan v. Dermedy, 197 Iowa 632, 196 N.W. 10 (1923).

8. Iowa Code § 85.16(1) (1989).

9. Schofield v. White, 250 Iowa 571, 95 N.W.2d 40 (1959).

10. *Id.* at ____, 95 N.W.2d at 46.

11. *See infra* notes 179-86 and accompanying text.

12. *See, e.g.*, Burnight v. Industrial Accident Comm'n, 181 Cal. App. 2d 816, 5 Cal. Rptr. 786 (1960); Saunders v. Texas Employers Ins. Ass'n, 526 S.W.2d 515, 517 (Tex. Ct. App. 1974).

13. *In re* Sponatski, 200 Mass. 526, 108 N.E. 466 (1915).

14. Daniels v. New York, New Haven & Hartford R.R., 183 Mass. 393, 67 N.E. 424 (1903).

violent insanity leading to an uncontrollable impulse or a delirium of frenzy, rendering the person without conscious volition to produce death, was compensable.[15] The case in which the insanity lead to a suicide through a voluntary, willful choice made by a moderately intelligent mental power, knowing the purpose and effect of the act, was noncompensable.[16] Subsequent to the decision in *Sponatski*, Massachusetts enacted a law allowing compensation when "due to the injury, the employee was of such unsoundness of mind as to make him irresponsible for his act of suicide."[17]

Insanity is present in both the compensable and the noncompensable cases. Arthur Larson's treatise on workers' compensation suggests that the compensable cases are those which present violent or eccentric means of self-destruction,[18] such as jumping from windows,[19] starving,[20] stabbing,[21] or thrusting the head against a saw.[22] Larson proposes two components to the *Sponatski* rule: uncontrollable impulse and knowledge of the physical consequences.[23] The former relates to will; the latter relates to knowledge or understanding.

Some courts have attempted to distinguish between a volitional act[24] and an intentional act[25] when the injury seems to override the rational judgment of the injured worker, thereby rendering the worker incapable of forming a willful intent.[26] The self-inflicted injury is sometimes not considered purposeful.[27] In a Nebraska case, expert scientific testimony was allowed to describe factors which could override the will to the point that knowing the consequences of the act would not prevent the act's occurrence.[28] The act, therefore, would be neither voluntary nor willful.[29] One line of reasoning is that when the employee has no rational or conscious control over his or her

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15. *In re* Sponatski, 200 Mass. at ____, 108 N.E. at 467.
16. *Id.*
17. MASS. GEN. L. ch. 152, § 26A (1989).
18. 1A A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 36.21 (1985).
19. *Id.* (citing *In re* Sponatski, 200 Mass. 526, 108 N.E. 466 (1915)).
20. *Id.* (citing Sinclair's Case, 248 Mass. 414, 143 N.E. 330 (1924)).
21. *Id.* (citing Kelly v. Sugarman, 5 A.D.2d 1023, 173 N.Y.S.2d 41 (1958)).
22. *Id.* (citing Karlen v. Department of Labor & Industry, 41 Wash. 2d 301, 249 P.2d 364 (1952)).
23. *Id.* § 36.22.
24. *See In re* Sade, 649 P.2d 538, 540-41 (Okla. 1982) (benefits denied because death was volitional).
25. *In re* Stroer, 672 P.2d 1158, 1161 (Okla. 1983).
26. Whitehead v. Keene Roofing Co., 43 So. 2d 464, 465 (Fla. 1949).
27. Hammons v. City of Hyland Park Police Dep't, 421 Mich. 1, ____, 364 N.W.2d 575, 581 (1984) ("A mind disoriented by physical or mental pain may be so impaired in its reasoning capacity that, although aware of the choices, it is incapable of rational choice.").
28. Friedeman v. State, 215 Neb. 413, ____, 339 N.W.2d 67, 73 (1983).
29. *Id.* The Washington Supreme Court listed factors such as injury related drug use, pain and suffering as causes for delirium which could render the injured employee incapable of forming an intent to commit suicide. Schwab v. Department of Labor & Indus., 76 Wash. 2d 784, ____,459 P.2d 1, 6 (1969).

actions, knowledge that the employee is taking his or her own life is not a superseding cause.[30]

Behavior prior to the ending of life can be so extreme that the inability to form intent is apparent even to a layperson. For example, a man who had broken his leg and developed phlebitis became incensed because a meal was late.[31] The man attacked his step-daughter, tore off her dress, and cursed. Following a scolding from his wife, he went to the barn and hanged himself.[32]

Because willful intent statutes are concerned with will, rather than understanding, once a jurisdiction ignores understanding, the jurisdiction is well on its way to utilizing a pure chain of causation test. The chain of causation test is ordinarily employed in any routine workers' compensation claim. Jurisdictions have varied to some degree in how the links are put together.

In Kentucky, for example, the chain of causation works as follows. An employee has an injury arising out of and in the course of employment. The injury leads to mental disorder, impairing normal and rational judgment, and the impaired judgment leads to suicide.[33]

The West Virginia test is similar and takes on a "but for" appearance. Compensability is allowed in cases where the work related injury leads to the development of a mental disorder, impairing the normal and rational judgment which, but for that mental disorder, would not have resulted in suicide.[34]

In Oklahoma, the chain of causation appears as follows. The work-related injury leads to dominance of mood by a disturbance caused by the injury. That dominance then becomes so severe that rational judgment is overridden.[35]

Occasionally, courts looking for threads of causation are faced with an avalanche. In a Montana Supreme Court case, the avalanche started with a back injury and surgery, which was followed by pain, fear of paralysis, inability to work, drinking, a distorted view, physical abuse, abandonment by family, and finally a compensable suicide.[36]

The New York rule is in reality a chain of causation test, but some decisions from various jurisdictions have separated the rule out as an alter-

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30. Meils v. Northwestern Bell Tel. Co., 355 N.W.2d 710, 714 (Minn. 1984).

31. McFarland v. Department of Labor & Indus., 62 P.2d 714, 716 (Wash. 1936).

32. *Id.* One might also consider drinking sulfuric acid to be unusual behavior. The Rhode Island Supreme Court did not, however, and denied benefits, finding that the decedent did not drink acid by mistake, but rather acted intentionally. Shewczuk v. Contrexeville Mfg. Co., 165 A. 444, 445 (R.I. 1933).

33. *See, e.g.*, Wells v. Harrell, 714 S.W.2d 498, 501-02 (Ky. Ct. App. 1986) (injury need only be work related and not necessarily disabling).

34. Hall v. State Workmen's Comp. Comm'r, 303 S.E.2d 726 (W. Va. 1983).

35. *In re* Stroer, 672 P.2d 1158, 1161 (Okla. 1983).

36. Campbell v. Young Motor Co., 211 Mont. 68, 684 P.2d 1101 (1984).

native to the *Sponatski* standard and the "but for" causation theory. In 1928 New York established the following standard:

> Death benefits are allowed if the injury results naturally and unavoidably in disease, and the disease causes death. This occurs if the injury causes insanity from gangrenous poisoning or otherwise, and the insanity directly causes suicide. In other words, if the suicide is not the result of discouragement, of melancholy, of other sane conditions, but of brain derangement, the death is compensable.[37]

As can be seen, discouragement, depression, or despondency are not sufficient.[38] Benefits have also been denied in cases in which there was no substantial evidence of mental disease or brain derangement.[39] The derangement may take the form of a psychosis.[40] An actual injury to the brain itself, which results in a normal person becoming abnormal, is the perfect case for the New York rule.[41]

II. Injury Arising Out of and in the Course of Employment

The starting point for the compensable suicide is an injury arising out of and in the course of employment.[42] In Iowa, injury is broadly defined as:

> An injury to the body, the impairment of health, or a disease, not excluded by the act, which comes about, not through the natural building up and tearing down of the human body, but because of a traumatic or other hurt or damage to the health or body of an employee. [citations omitted] The injury to the human body here contemplated must be something, whether an accident or not, that acts extraneously to the natural processes of nature, and thereby impairs the health, overcomes, injures, interrupts, or destroys some function of the body, or otherwise damages or injures a part or all of the body.[43]

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37. Delinousha v. National Biscuit Co., 248 N.Y. 93, ____, 161 N.E. 431, 432 (1928).

38. Estate of Vernum v. State Univ., 163 N.Y.S.2d 727, 728 (1957) (sole medical testimony was from a general practitioner who did not say decedent suffered a mental disorder). Louisiana embraces the New York rule. *See, e.g.*, Soileau v. Travelers Ins. Co., 198 So. 2d 543, 546 (La. Ct. App. 1967).

39. *See, e.g.*, Palmer v. Redman, 281 A.D. 723, 117 N.Y.S.2d 708 (1952).

40. *See, e.g.*, Maricle v. Glazier, 283 A.D. 402, 128 N.Y.S.2d 148 (1954) (claimant was depressed, afraid of being alone, nervous, unable to sleep, concerned cancer would develop, and worried that he would be a burden on his spouse).

41. *See, e.g.*, Falso v. National Wiring & Protective Co., 17 A.D.2d 667, 230 N.Y.S.2d 164 (1962) (blow to the head resulted in mental problems); McIntosh v. E. F. Hauserman Co., 12 A.D.2d 406, 211 N.Y.S.2d 482 (1961) (fractured skull and subdural hematoma necessitated a craniotomy resulting in seizures, loss of speech, headaches, and dizziness); Sulfaro v. Pellegrino & Sons, 2 A.D.2d 426, 156 N.Y.S.2d 411 (1956) (post-traumatic cerebral degeneration).

42. *See, e.g.*, McCoy v. Workmen's Comp. App. Bd., 518 A.2d 883 (1986) (stress factors leading to the death of decedent who ran a family catering business were not a result of his functioning as an employee, but rather due to his inability to support his family).

43. Almquist v. Shenandoah Nurseries, Inc., 218 Iowa 724, 732, 254 N.W. 35, 39 (1934).

The Iowa Act does not require an accident[44] or unusual occurrence.[45] Injuries which develop over a period of time also have been recognized as "injuries."[46] Jurisdictions outside of Iowa may have different standards as to what constitutes an injury.[47]

Injuries which have led to suicide or attempted suicide are wide-ranging. Examples include: dust in the eye,[48] a hernia,[49] a myocardial infarction,[50] a blow to the head,[51] amputation of the fingers,[52] cerebral concussion,[53] back and knee trouble,[54] tuberculosis,[55] fractured cheek and jaw,[56] and cerebral hemorrhage.[57] The injury in *Schofield* was a fall backward down the basement steps which resulted in a mild concussion.[58] Ultimately, an examination must be made to determine the physical trauma's impact on the mind.[59] An occupational disease might also result in a compensable suicide.[60]

A considerable number of cases exist in which no physical injury or disease existed prior to the suicide or attempted suicide, but rather a specific or cumulative mental trauma led to suicide.[61] Due to the broad definition of injury in Iowa, mental injuries are recognized as injuries arising out of and

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44. Olson v. Goodyear Serv. Stores, 255 Iowa 1112, 1116, 125 N.W.2d 251, 254 (1963).

45. Ford v. Goode, 240 Iowa 1219, 1222, 38 N.W.2d 158, 159 (1949).

46. McKeever Custom Cabinets v. Smith, 379 N.W.2d 368, 374 (Iowa 1985).

47. *See* LARSON, *supra* note 17, §§ 36-42.

48. Veloz v. Fidelity Union. Cas. Co., 8 S.W.2d 205 (Tex. Ct. App. 1928).

49. Maricle v. Glazier, 283 A.D.2d 402, 128 N.Y.S.2d 148 (1954).

50. Estate of Vernum v. State Univ., 4 A.D.2d 722, 163 N.Y.S.2d 727 (1957); Olson v. F. I. Crane Lumber Co., 259 Minn. 257, 107 N.W.2d 223 (1960) (suicide after heart attack compensable on three possible theories—heart attack resulted in insufficient oxygen to the brain, psychological reaction, or a straight causation theory).

51. Falso v. National Wiring & Protective Co., 17 A.D.2d 667, 230 N.Y.S.2d 164 (1962).

52. Widdis v. Collingdale Millwork Co., 169 Pa. Super. 612, 84 A.2d 259 (1951) (benefits denied).

53. Sulfaro v. Pellegrino & Sons, 2 A.D.2d 426, 156 N.Y.S.2d 411 (1956).

54. Sullivan v. Banister Pipeline AM, 86 Or. App. 334, 739 P.2d 597 (1987).

55. Jones v. Leon County Health Dep't, 335 So. 2d 269 (Fla. 1976).

56. Petty v. Associate Trans., Inc., 276 N.C. 417, 173 S.E.2d 321 (1970).

57. Terminal Shipping Co. v. Traynor, 243 F. Supp. 915 (D. Md. 1965).

58. Schofield v. White, 250 Iowa 571, 574, 95 N.W.2d 40, 43 (1959).

59. Iowa cases dealing with emotional problems developing as a result of physical trauma include: Coghlan v. Quinn Wire & Iron Works, 164 N.W.2d 848 (Iowa 1969); Gosek v. Garner & Stiles Co., 158 N.W.2d 731 (Iowa 1968); and Yeager v. Firestone Tire & Rubber Co., 253 Iowa 369, 112 N.W.2d 299 (1961).

60. Harvey v. Raleigh Police Dep't, 85 N.C. App. 540, 355 S.E.2d 147 (1987) (court noted suicide caused by occupational disease would be compensable and remanded the case for further findings by the industrial commissioner).

61. *See, e.g.*, Hammons v. City of Hyland Park Police Dep't, 364 N.W.2d 575 (Mich. 1987); McCarville v. Williams, Stevens, McCarville & Frizzell, 84 A.D.2d 639, 444 N.Y.S.2d 495 (1981); University of Pittsburgh v. Workmen's Comp. App. Bd., 49 Pa. Commw. 347, ——, 405 A.2d 1048 (1979).

in the course of employment.[62] Although the Iowa Supreme Court has not established a specific standard of compensability in cases of mental trauma resulting in mental injury,[63] the court has indicated that the *Swiss Colony* rule,[64] which is used by the Iowa Industrial Commissioner, would be the standard in Iowa.[65] In the event the Iowa Supreme Court again utilizes the *Sponatski* rule,[66] benefits will be easier obtained in cases of mental injury because of the emphasis on the mental attitude.[67]

Examples from other jurisdictions are illustrative of the concept of compensable injury[68] and the standard to be met in the case of mental trauma.

The South Carolina Court of Appeals used the definition of accident, an untoward event not expected, designed or intentionally caused to deny benefits to an insurance worker who shot himself in the head and was left blind, but not dead.[69] The court, in a *Swiss Colony*-type evaluation,[70] viewed the claimant's dislike of his work as normal dissatisfaction in the nature of the work, and viewed the working conditions as being like those of other persons similarly employed.[71]

In Pennsylvania, an acute psychotic episode, leading to a shooting death, was found compensable for survivors of a security guard.[72] The guard accidentally shot a robbery suspect in the neck. In a combat-like reaction,

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62. Deaver v. Armstrong Rubber Co., 170 N.W.2d 455, 466 (Iowa 1969) (citing Sollitt Constr. Co. v. Walker, 127 Ind. App. 213, ____, 135 N.E.2d 623, 627 (1956)).

63. *See generally* LARSON, *supra* note 17, § 42.20.

64. In Swiss Colony, Inc. v. Dep't of Indus., Labor & Human Relations, 72 Wis.2d 46, 240 N.W.2d 128 (1976), the Wisconsin court applied a standard of legal causation which required a compensable injury resulting from stress and tension greater than that which all employees experience from day to day. *Id.* at 130 (citing School Dist. 1 v. Department of Indus., Health & Labor Relations, 62 Wis. 2d 370, 215 N.W.2d 373 (1974)). *See also* Findley v. Industrial Comm'n, 660 P.2d 874 (Ariz. Ct. App. 1983); Harvey v. Raleigh Police Dep't, 85 N.C. App. 540, 355 S.E.2d 147 (1987); Yates v. Life Ins. Co., 291 S.C. 301, 353 S.E.2d 297 (Ct. App. 1987).

65. Schreckengast v. Hammermills, Inc., 369 N.W.2d 809, 810-11 (Iowa 1985).

66. *See supra* notes 13-30.

67. University of Pittsburgh v. Workmen's Comp. App. Bd., 49 Pa. Commw. 347, ____, 405 A.2d 1048, 1049-50 (1979) (decedent doctor who took his own life under pressure of responsibilities, frustration in his inability to obtain compensation, feelings of failure, and fear of termination was found to be possessed of an uncontrollable mental attitude or frenzy).

68. For example, ARIZ. REV. STAT. ANN. § 23-1043.01(B) (1983) refers to mental injury and requires "some unexpected, unusual or extraordinary stress related to the employment or some physical injury related to the employment [which] was a substantial contributing cause of the mental injury, illness, or condition." *See* Findley v. Industrial Comm'n, 660 P.2d 874 (Ariz. Ct. App. 1983) (Contrary to the administrative law judge, court found that decedent who had business reverses, worked overtime contrary to his doctor's advice, and was constantly on call, had extraordinary job-related stress).

69. Yates v. Life Ins. Co., 291 S.C. 301, ____, 353 S.E.2d 297, 298-99 (Ct. App. 1987).

70. *See supra* note 64.

71. Yates v. Life Ins. Co., 291 S.C. at ____, 353 S.E.2d at 300.

72. *See* Globe Sec. Sys. Co. v. Workmen's Comp. App. Bd., 103 Pa. Commw. 384, 520 A.2d 545 (1987).

the guard turned the gun on himself. Benefits were awarded.[73]

In a similar Massachusetts case, a supervisory corrections officer ordered fellow officers to transfer an inmate.[74] One of the officers became ill during a scuffle with an inmate and died. The supervisor felt responsible, had an anxiety attack, and was hospitalized. Several weeks later, the supervisor shot himself. The traumatic event was viewed as greater than the stress produced by everyday work. The court held that the traumatic event became the triggering mechanism for a psychotic, depressive reaction, which in turn resulted in the compensable suicide.[75] Similarly, benefits were awarded to an Oregon doctor who was sued for malpractice, developed a manic depressive disorder, and committed suicide.[76]

III. Causation

Once a work related injury has been established, the next consideration is whether or not the requisite causation between that injury and a suicide or attempted suicide can be found. Most jurisdictions do not require that the employment related injury be the sole proximate cause of the suicide.[77] Nevertheless, benefits probably would be denied if the suicide was primarily attributable to nonwork problems or if the nonemployment circumstances made a greater contribution to the suicide than the employment circumstances.[78] The Iowa Act requires the employment to be a "proximate contributing cause."[79] The Iowa Supreme Court has added that "[a] cause is proximate if it is a substantial factor in bringing about the result. It only needs to be one cause; it does not have to be the only cause."[80]

Hammons v. City of Hyland Park Police Department,[81] a Michigan case, contained a great deal of interesting evidence regarding other potential

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73. *Id.* at ____, 520 A.2d at 546. *See also* SCM Corp. v. Workmen's Comp. App. Bd., 102 Pa. Commw. 536, 518 A.2d 887 (1986). Decedent, who was transferred from a position in production to a clerk in charge of inventory was responsible for an inventory report. *Id.* at ____, 518 A.2d at 888 n.2. The report concerned him and he underwent personality changes and suffered from depression. *Id.* at ____, 518 A.2d at 888. The day he finished the report, he shot himself. *Id.* at ____, 518 A.2d at 888 n.2. The court held that the job transfer triggered mental illness, and benefits were awarded. *Id.* at ____, 518 A.2d at 888-89.

74. *In re* Fitzgibbons, 374 Mass. 633, 373 N.E.2d 1174, 1175 (1978).

75. *Id.* at ____, 373 N.E.2d at 1176.

76. *See* McGill v. State Accident Ins. Fund Corp., 81 Or. App. 210, 724 P.2d 905 (1986).

77. *See, e.g., In re* Stroer, 672 P.2d 1158, 1161 (Okla. 1983).

78. *See, e.g.*, Cariaga v. Del Monte Corp., 65 Haw. 404, 652 P.2d 1143 (1982) (breakup with girlfriend); Estate of Babb v. GTE Sylvania, Inc., 417 So. 2d 545 (Miss. 1982) (extremely anxious and insecure personality); Hyde v. New York State Dep't of Mental Hygiene, 48 A.D.2d 948, 369 N.Y.S.2d 29 (1975), *aff'd*, 39 N.Y.2d 854, 386 N.Y.S.2d 214 (1976) (avoidance of legal proceedings); Consula v. Town of Harrison, 16 A.D.2d 848, 227 N.Y.S.2d 585 (1962) (death of sister).

79. Musselman v. Central Tel. Co., 261 Iowa 352, ____, 154 N.W.2d 128, 132 (1967).

80. Blacksmith v. All-American, Inc., 290 N.W.2d 348, 354 (Iowa 1980) (citation omitted).

81. Hammons v. City of Hyland Park Police Dep't, 421 Mich. 1, 364 N.W.2d 575 (1984).

causes for suicide. Hammons' dependents received benefits following the police officer's suicide, which was contributed to by the officer's disappointment regarding his inability to advance from the rank of corporal to the rank of sergeant, and by anticipated problems with co-workers.[82] Other changes in decedent's life included a divorce and a rejection of a proposal of marriage by a co-worker a day and a half before the date of his death.[83] The court noted that "existence of those non-work-related difficulties does not negate the compensability of the work-related factors."[84]

The Appellate Division of the Supreme Court of New York found compensability under a similar mix of facts.[85] Decedent, a lawyer, was under stress caused by his father's death, the purchase of an expensive home, and other personal problems. He was also facing time limitations in his law practice and believed he had made a serious error which would lead to his being asked to resign from the law firm.[86] The suicide was compensable.[87]

The same New York court denied benefits to survivors of a decedent who took his life after the death of his sister.[88] An independent evaluator testified that both decedent's physical injury and his sister's death played a role in the suicide, but that the sister's death played the larger role.[89] But for the sister's death, there would have been no suicide.[90]

In a third New York case, defendants were successful in defeating a claim for benefits when a worker, who was involved in proceedings against him for mistreating mentally retarded children, committed suicide.[91] The defense showed through expert testimony that the suicide was not the result of mental illness, but rather a method of avoiding additional legal proceedings.[92] Both this case and the case of the lawyer[93] were mental-injury-only claims.

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82. *Id.* at ____, 364 N.W.2d at 576.

83. *Id.* at ____, 364 N.W.2d at 577 n.2. Although there were recent events that could be considered contributing factors, decedent left a suicide note reporting unhappiness for 30 years. *Id.* at ____, 364 N.W.2d at 576.

84. *Id.*

85. *See* McCarville v. Williams, Stevens, McCarville & Frizzell, 84 A.D.2d 639, 444 N.Y.S.2d 495 (1981).

86. *Id.* at ____, 444 N.Y.S.2d at 496.

87. *Id.*

88. *See* Consula v. Town of Harrison, 16 A.D.2d 848, 227 N.Y.S.2d 585, *aff'd*, 11 N.Y.2d 647, 230 N.Y.S.2d 1025 (1962).

89. *Id.* at ____, 227 N.Y.S.2d at 587-88.

90. *Id.* at ____, 227 N.Y.S.2d at 588.

91. *See* Hyde v. New York State Dep't of Mental Hygiene, 48 A.D.2d 948, 369 N.Y.S.2d 29 (1975), *aff'd*, 39 N.Y.2d 854, 386 N.Y.S.2d 214 (1976).

92. *Id.* at ____, 369 N.Y.S.2d at 30.

93. *See supra* notes 85-87 and accompanying text.

A. *Aggravation of a Preexisting Condition*

The presence of a preexisting condition may adversely affect a litigant's ability to prove causation. However, using a pre-existing condition as a defense is routinely a much less fertile field than might be anticipated. The primary reason for this defense's lack of viability is the concept of aggravation of the preexisting condition. The employer takes the employee as is, with all existent and latent conditions.[94] In Iowa these conditions may arise from a source other than employment.[95] The determination becomes whether the condition is "aggravated, accelerated, worsened or 'lighted up' " by the employment.[96]

While a court would ordinarily look for past mental or emotional difficulties, preexisting physical problems—including an ulcer which was surgically treated, removal of part of the small bowel, heart trouble, and dumping syndrome which rendered decedent unable to obtain adequate nourishment from his food—defeated the claim in a Mississippi case.[97]

Case law shows that the establishment of fairly significant emotional problems,[98] prior psychiatric treatment,[99] a psychopathic personality,[100] neuroses,[101] sociopathic personality,[102] dysthmic disorder,[103] or suicide attempts

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94. Ziegler v. United States Gypsum Co., 252 Iowa 613, 620, 106 N.W.2d 591, 595 (1960).

95. Ford v. Goode, 240 Iowa 1219, 1222, 38 N.W.2d 158, 159 (1949).

96. Nicks v. Davenport Produce Co., 254 Iowa 130, ____, 115 N.W.2d 812, 815 (1962). *See also* Barz v. Oler, 257 Iowa 508, 133 N.W.2d 704 (1965); Farrow v. What Cheer Clay Prod. Co., 198 Iowa 922, 200 N.W. 625 (1924).

97. Estate of Babb v. GTE Sylvania, Inc., 417 So. 2d 545 (Miss. 1982) (decedent concerned about his spouse's employment). *But see* Goldsamt v. Industrial Comm'n, 93 Ill. 2d 115, 442 N.E.2d 831 (1982) (substantial complaints with benefits awarded).

98. *See* Elmore v. Broughton Hosp., 76 N.C. App. 582, 334 S.E.2d 231 (1985) (claimant who was emotionally stable prior to compensable physical injury was awarded benefits in spite of prior episode of depression and suicidal thinking ten years before). In Hammons v. City of Hyland Park Police Dep't, 421 Mich. 1, 364 N.W.2d 575 (1984), severe emotional problems did not defeat the claim. The defense showed that because the decedent's father had died six months before his birth, the decedent was raised without a father. *Id.* at ____, 364 N.W.2d at 576 n.2. The decedent's relationship with his mother was strained and he had financial problems from living beyond his means. *Id.* at ____, 364 N.W.2d at 577 n.2. He was concerned with his son's irresponsibility and the potential that his daughter might engage in interracial dating. *Id.* One daughter was killed accidentally. *Id.* Thereafter decedent was described as deeply disturbed and depressed. *Id.* His wife had his firearms taken because she did not trust him. *Id.*

99. *See* Hammons v. City of Hyland Park Police Dep't, 421 Mich. 1, ____, 364 N.W.2d 575, 578-80 (1984).

100. *See* Beauchamp v. Workmen's Comp. App. Bd., 259 Cal. App. 2d 147, 66 Cal. Rptr. 352 (1968) (decedent discharged from military service on diagnosis of psychopathic personality and emotional instability).

101. *See* City of Tampa v. Scott, 397 So. 2d 1220 (Fla. Dist. Ct. App. 1981).

102. *See* White v. Kitty Clover Co., 409 P.2d 637 (Okla. 1965).

103. *See* Harvey v. Raleigh Police Dep't, 85 N.C. App. 540, 355 S.E.2d 147 (1987).

unrelated to work[104] will not necessarily defeat a claim. A record of past psychological testing might assist a claim.[105] An argument to defeat the pre-existing condition defense points out that the worker did not choose suicide until after the compensable injury.[106]

B. *Effect of a Suicide Note on Compensability*

Workers who have decided to commit suicide may write suicide notes. The preparation of a note may lead to a denial of compensation in jurisdictions adhering to the *Sponatski* standard, because those courts might be forced to find a planned death, as opposed to a frenzied death.[107] Courts following *Sponatski* may look to the absence of a note as a factor in their decisions to award benefits.[108] In a chain of causation jurisdiction, however, the suicide note may become part of the documentary evidence leading to an award of benefits.[109]

Admissibility of a note can become an issue to which formal rules of evidence are more strictly applied. A suicide note has been held admissible to show the present state of mind of the decedent.[110] A federal district court observed that while a suicide note might indicate that a death was intentional, the suicide note was not conclusive evidence on willfulness.[111]

A Florida court found no willful intent and awarded benefits in the case of a decedent who wrote a four-page note which stated that his mind had snapped in February, the time of his compensable injury.[112] Three medical experts provided testimony. One expert said that there was a direct causal relationship.[113] Another expert said the injury triggered an underlying neurosis.[114] The third expert said there was no causal relationship.[115] Decedent's note seemingly assisted in establishing his case, because the court found no

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104. *See* Schwab v. Department of Labor & Indus., 76 Wash. 2d 784, 459 P.2d 1 (1969).

105. *See* Harvey v. Raleigh Police Dep't, 85 N.C. App. 540, 355 S.E.2d 147 (1987).

106. *See* City of Streator v. Industrial Comm'n, 92 Ill. 2d 353, 442 N.E.2d 497 (1982).

107. *See In re* Sponatski, 220 Mass. 526, ____, 108 N.E. 466, 467 (1915). Although a note was left in *Sponatski*, the court found that the note was not indicative of a suicidal purpose. *Id.* Decedent had signed the note with a name which was not his own, leading the court to conclude that the note was the product of a disoriented intellect. *Id.*

108. *See, e.g.*, Schofield v. White, 250 Iowa 571, 580, 95 N.W.2d 40, 45 (1959).

109. *See, e.g.*, City of Streator v. Industrial Comm'n, 92 Ill. 2d 353, 442 N.E.2d 497 (1982) (benefits awarded where suicide note said decedent could not go on with life because of back pain).

110. *See* Friedeman v. State, 215 Neb. 413, 339 N.W.2d 67 (1983) (decedent in compensable claim had contemplated suicide for one year). *See also* Widdis v. Collingdale Millwork Co., 169 Pa. Super. 612, 84 A.2d 259 (1951).

111. *See* Terminal Shipping Co. v. Traynor, 243 F. Supp. 915 (D. Md. 1965).

112. *See* City of Tampa v. Scott, 397 So. 2d 1220, 1221 (Fla. Dist. Ct. App. 1981).

113. *Id.*

114. *Id.*

115. *Id.*

willful intent and awarded benefits.[116] However, a noncompensable case involved a suicide note that was actually left for the employee's supervisor.[117] The note told the supervisor that he could have decedent's car to partially make up for a shortage in inventory.[118]

Another decedent wrote four notes: one note to his son, expressing the emptiness of his life for the past two years after leaving employment with the railroad; a second note to his wife, professing his affection for her; a third note to a friend with whom he did woodworking, expressing his sorrow for leaving the railroad; and a fourth note also related to a friend.[119] The notes contained no reference to his accident, amputation of part of his fingers, or to a mental reaction.[120] The notes were viewed as evidence of premeditation and planning, and as evidence of a rational mind which contemplated destruction and chose the consequences.[121]

Although leaving home to commit suicide could suggest preplanning, some compensable cases have involved that aspect.[122]

C. *Instrument of Death*

The methods of demise in suicide cases have varied.[123] In the overall

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116. *Id.* at 1222.

117. White v. Kitty Clover Co., 409 P.2d 637 (Okla. 1965).

118. *Id.* at 638.

119. *See* Widdis v. Collingdale Millwork Co., 169 Pa. Super. 612, ____, 84 A.2d 259, 260 (1951).

120. *Id.*

121. *Id.*

122. *See, e.g.*, Trombley v. Cold Water State Home & Training School, 366 Mich. 649, 115 N.W.2d 561 (1962) (decedent went to secluded spot); Barber v. Industrial Comm'n, 241 Wis. 462, 6 N.W.2d 199 (1942) (decedent went to Canada); Burnight v. Industrial Accident Comm'n, 181 Cal. App. 2d 816, 5 Cal. Rptr. 786 (1960) (decedent went to cheap hotel).

123. Guns: *see, e.g.*, Redmond v. Workmen's Comp. App. Bd., 36 Cal. App. 3d 302, 111 Cal. Rptr. 530 (1973); Kasman v. Hillman Coal & Coke Co., 149 Pa. Super. 263, 27 A.2d 762 (1942); Globe Sec. Sys. Co. v. Workmen's Comp. App. Bd., 103 Pa. Commw. 384, 520 A.2d 545 (1987).

Hanging: *see, e.g.*, Workmen's Comp. App. Bd. v. Sullivan, 22 Pa. Commw. 386, 348 A.2d 925 (1975); McFarland v. Department of Labor & Indus., 188 Wash. 357, 62 P.2d 714 (1936).

Jumping from high places: *see, e.g.*, Goldsamt v. Industrial Comm'n, 93 Ill. 2d 115, 442 N.E.2d 831 (1982) (benefits denied in failed attempt in which claimant jumped from ninth floor with subsequent amputation of both legs); Gasperin v. Consolidation Coal Co., 293 Pa. 589, 143 A. 187 (1928).

Motor vehicle: *see, e.g.*, Brunet v. State, 442 So. 2d 638 (La. Ct. App. 1983) (benefits denied to decedent who drove car into flatbed truck); Breckenridge v. Midlands Roofing Co., 222 Neb. 452, 384 N.W.2d 298 (1986) (consideration in case was whether or not it was decedent's job to start motor vehicles); Brenne v. Dep't of Indus., Labor & Human Relations, 38 Wis. 2d 84, 156 N.W.2d 497 (1968).

Drinking poison: *see, e.g.*, Whitehead v. Keene Roofing, 43 So. 2d 464 (Fla. 1949) (decedent survived for a few days after swallowing potash and lye, and said that he had "gone nuts" when asked why he took poison); Shewczuk v. Contrexville Co., 53 R.I. 223, 165 A. 444 (1933) (decedent said to have acted intentionally in that no one would drink poison by accident).

scheme, the method used is of relative unimportance, except in a few cases.

For example, defendants asserted the defense of foul play where a jail matron had fallen eight months before and injured her right arm.[124] The jail matron was found with two wounds in her abdomen and one wound in her head.[125] Defendants argued that because of paralysis in her arm, hand, index finger, and thumb, she was incapable of pulling the trigger.[126] Defendants lost.[127]

The second context in which the instrument of death is important is where the instrument is a part of the treatment for the compensable injury.[128] Although there are no Iowa workers' compensation cases in which death resulted from treatment for a compensable injury,[129] such a death could be compensable under existing case law. In *Cross v. Hermanson Brothers*[130] the court proposed that an injury resulting from treatment would be proximate to the original injury, making that injury compensable as well.

In an Arizona case, the medication prescribed to treat an initial injury became the instrumentality used for suicide when the decedent took thirty times his normal dose of medication.[131] In a Washington case, benefits were awarded when the decedent took sleeping pills which were prescribed for a noncompensable condition.[132]

Seeking medical treatment also has been recognized as a contributing factor, both in Iowa[133] and elsewhere.[134] Consideration might be given to frustration in scheduling doctors' appointments, receiving bad news from the doctor, or in failing to obtain relief from the care provided.

A court may find the decedent's mental condition altered by drugs,

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Starving: *see, e.g.*, Sinclair's Case, 248 Mass. 414, 143 N.E. 330 (1924).

Knife: *see, e.g.*, Kelly v. Sugarman, 5 A.D.2d 1023, 173 N.Y.S.2d 41 (1958).

Power saw: *see, e.g.*, Karlen v. Department of Labor & Indus., 41 Wash. 2d 301, 249 P.2d 364 (1952).

124. County of Cook v. Industrial Comm'n, 87 Ill. 2d 204, 429 N.E.2d 865 (1981).

125. *Id.* at ____, 429 N.E.2d at 866.

126. *Id.*

127. *Id.* at ____, 429 N.E.2d at 867 (defense failed and benefits were awarded on testimony that decedent was distraught with pain and depressed).

128. Schwab v. Department of Labor & Indus., 76 Wash. 2d 784,____, 459 P.2d 1, 2 (1969) (benefits awarded when decedent took pills that were prescribed for a noncompensable condition; "If the heart attack resulted from the performance of the work . . . the survivors would be entitled to worker's compensation for injury or death growing out of improper care after the heart attack.")

129. *But see* Heumphreus v. State, 334 N.W.2d 757, 760 (Iowa 1983).

130. Cross v. Hermanson Bros., 235 Iowa 739, 741, 16 N.W.2d 616, 617 (1944).

131. *See* Reynolds Metal Co. v. Industrial Comm'n, 119 Ariz. App. 566, 582 P.2d 656 (1978). *See also* Franzoni v. Loew's Theatre & Realty Corp., 22 A.D. 741, 253 N.Y.S.2d 505 (1964); Sade v. Troublefield, 649 P.2d 538 (Okla. 1982).

132. *See* Schwab v. Department of Labor & Indus., 76 Wash. 2d 952, 459 P.2d 1 (1969).

133. *See* Schofield v. White, 250 Iowa 571, 575, 95 N.W.2d 40, 44 (1959).

134. *See, e.g.*, Elmore v. Broughton Hosp., 76 N.C. App. 582, 334 S.E.2d 231 (1985).

which were prescribed for pain relief, to the point that claimant's sense of value is distorted.[135] Evidence would include testimony that the drug prescribed to treat the condition could itself result in emotional changes.[136]

Many jurisdictions acknowledge the role which physical pain resulting from a compensable injury can play in a suicide[137] or attempted suicide.[138] Some jurisdictions also recognize the role of mental pain following physical injury.[139] In Louisiana, however, it is necessary to establish that suicide is the result of insanity, mental disease or derangement, or psychosis stemming from an injury.[140] In *Mallet v. Louisiana Nursing Homes, Inc.*, benefits were denied to a claimant who attempted suicide and claimed that she suffered from a mental disease, caused by prolonged use of narcotics to relieve pain. The trial judge found a despondency rather than the required disease.[141]

D. *Effect of Alcohol on Compensability*

Just as abuse of medication plays a role in suicide, alcohol also frequently plays a role.[142] Under the Iowa Code the use of alcohol may provide an additional defense. A subsection of section 85.16 of the Code, which contains the statutory defense for suicide, also directs that no compensation be paid when:

> [I]ntoxication, which did not arise out of and in the course of employment, but which was due to effects of alcohol or another narcotic, depressant, stimulant, or hallucinogenic, or hypnotic drug not prescribed by an authorized medical practitioner . . . was a substantial factor in causing the injury.[143]

Defendants may seek to establish that the decedent was a problem drinker and alcohol abuser before the event leading to suicide.[144] In jurisdictions recognizing aggravation of an underlying condition, alcohol abuse may be a link in the chain of causation, that is, the injury aggravated the

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135. *See* Saunders v. Texas Employers Ins. Ass'n, 526 S.W.2d 515 (Tex. 1975) (decedent, who was taking medication when spouse and child left for church, was found dead when his family returned).

136. *See* Jones v. Leon County Health Dep't, 335 So. 2d 269 (Fla. 1976) (drug prescribed to treat tuberculosis caused emotional changes).

137. *See, e.g.*, Meils v. Northwestern Bell Tel. Co., 355 N.W.2d 710 (Minn. 1984).

138. Elmore v. Broughton Hosp., 76 N.C. App. 582, ____, 334 S.E.2d 231, 234 (1985).

139. *Id.* at ____, 334 S.E.2d at 232 (loss of self-esteem).

140. *See* Mallet v. Louisiana Nursing Homes, Inc., 459 So. 2d 178 (La. Ct. App. 1984).

141. *Id.* at 184.

142. *See, e.g.*, Mallet v. Louisiana Nursing Homes, Inc., 459 So. 2d 178 (La. Ct. App. 1984) (benefits denied); Friedeman v. State, 215 Neb. 413, 339 N.W.2d 67 (1983) (benefits granted); Sade v. Troublefield, 649 P.2d 538 (Okla. 1982) (benefits denied).

143. IOWA CODE § 85.16(2) (1989).

144. Workmen's Comp. App. Bd. v. Sullivan, 22 Pa. Commw. 386, 348 A.2d 925 (1975).

abuse.[145] One common argument on behalf of those trying to obtain benefits is that the decedent was driven to drink by pain which was unrelieved by medication.[146] If the jurisdiction is one in which a claim is barred by willful intent,[147] use of alcohol may be cited as contributing to an inability on the part of decedent to form intent.[148] A contrary argument, successful in one case, was that decedent drank to the point of having the nerve to kill himself.[149] Expert testimony may be offered as to the depressant effect of alcohol and its influence on the instinct for self-preservation.[150]

E. *Procedural Aspects of Causation*

While alcohol occasionally appears as a defense in a suicide matter, the statute of limitations is not an important shield. Suicides which occurred three and one-half,[151] four,[152] five,[153] eight,[154] and twelve[155] years after the initial injury have all been found compensable. The Iowa statute of limitations, assuming benefits have been paid without a denial of liability, precludes actions after three years from the date of last payment.[156]

Jurisdictions vary somewhat regarding the kind of testimony necessary to prove a case, that is, whether an award can be based solely on lay testimony without the accompaniment of expert testimony.[157] The typical answer is no. Expert testimony is necessary. Some exceptions, however, exist in those cases in which the facts and circumstances surrounding the death are otherwise persuasive.[158]

Matters of causal connection in Iowa are essentially within the domain

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145. *See, e.g.*, Sullivan v. Banister Pipeline AM, 86 Or. App. 334, 739 P.2d 597 (1987).

146. *See* Campbell v. Young Motor Co., 211 Mont. 68, 684 P.2d 1101 (1984) (defendant stopped drinking one month before death).

147. *See, e.g.*, Schell v. Buell ECD Co., 102 N.M. 44, 690 P.2d 1038 (Ct. App. 1983).

148. *See* Sullivan v. Banister Pipeline AM, 86 Or. App. at ____, 739 P.2d at 599-600.

149. Workmen's Comp. App. Bd. v. Sullivan, 22 Pa. Commw. 386, 348 A.2d 925 (1975).

150. *Id.* at ____, 348 A.2d at 927.

151. *See* Jakco Painting Contractors v. Industrial Comm'n, 702 P.2d 755 (Colo. Ct. App. 1985) (statutory presumption that death occurring more than two years after the injury is not due to injuries, was overcome by the evidence).

152. *See* Delaware Tire Center v. Fox, 401 A.2d 97 (Del. Super. Ct. 1979), *aff'd*, 411 A.2d 606 (Del. 1980).

153. *See* Campbell v. Young Motor Co., 211 Mont. 68, 684 P.2d 1101 (1984).

154. *See* Meils v. Northwestern Bell Tel. Co., 355 N.W.2d 710 (Minn. 1984).

155. Falso v. National Wiring & Protective Co., 17 A.D.2d 667, 230 N.Y.S.2d 164 (1962).

156. IOWA CODE § 85.26(1) (1989). A Pennsylvania statute requires compensable death to occur within 300 weeks after injury. *See* McCoy v. W.C.A.B., 102 Pa. Commw. 436, ____, 518 A.2d 883, 885 (1986).

157. *See, e.g.*, Reynolds Metal Co. v. Industrial Comm'n, 119 Ariz. App. 566, ____, 582 P.2d 656, 659 (1978); City of Streator v. Industrial Comm'n, 92 Ill. 2d 353, 442 N.E.2d 497 (1982).

158. *See, e.g., In re* Stroer, 672 P.2d 1158, 1161 (Okla. 1983).

of expert testimony.[159] Expert opinion does not have to be "couched in definite, positive or unequivocal language."[160] The weight to be given to expert opinion, which can "be accepted or rejected in whole or in part,"[161] is for the finder of fact and "may be affected by the completeness of the premise given the expert and other surrounding circumstances."[162] Expert medical testimony must be considered with all other evidence bearing on causal connection.[163] In some cases, expert opinions as to causal connection are developed after the death, even though the practitioners never personally knew or examined the decedent prior to death.[164] Some courts have found the so-called psychological autopsy to be competent and relevant expert opinion.[165] Other courts have rejected this type of testimony as not persuasive.[166]

Both expert[167] and lay[168] testimony may be used to document personality and activity changes which have been observed in the decedent.[169] Such testimony might refer to concerns about health,[170] discouragement,[171] and loss of sexual interest.[172] In some cases, testimony regarding no significant changes in the decedent after the injury and prior to the death, served to defeat the claim.[173] Domestic difficulties,[174] ranging from marital problems[175]

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159. Bradshaw v. Iowa Methodist Hosp., 251 Iowa 375, 383, 101 N.W.2d 167, 171 (1960).

160. Sondag v. Ferris Hardware, 220 N.W.2d 903, 907 (Iowa 1974).

161. *Id.*

162. Bodish v. Fischer, Inc., 257 Iowa 516, 521, 133 N.W.2d 867, 870 (1965).

163. Burt v. John Deere Waterloo Tractor Works, 247 Iowa 691, 700, 73 N.W.2d 732, 737 (1955).

164. *See, e.g.*, Workmen's Comp. App. Bd. v. Sullivan, 22 Pa. Commw. 386, 348 A.2d 925 (1975) (evidence consisted of psychiatric speculation as to the kind of personality disorder which could result from the conditions and occurrences which tormented decedent).

165. *See, e.g.*, Harvey v. Raleigh Police Dep't, 85 N.C. App. 540, ____, 355 S.E.2d 147, 152 (1987).

166. *See, e.g.*, Brunet v. State, 442 So. 2d 638 (La. Ct. App. 1983).

167. *See* McCarville v. Williams, Stevens, McCarville & Frizzell, P.C., 84 A.D.2d 639, 444 N.Y.S.2d 495 (1981) (attending physician reported that decedent's feelings of hopelessness were due to tension and pressure of activities, which had in the past given the attorney self worth, pleasure, financial reward, and professional esteem and recognition).

168. *See* Graver Tank & Mfg. Co. v. Industrial Comm'n, 97 Ariz. 256, ____, 399 P.2d 664, 665-66 (1965); Campbell v. Young Motor Co., 210 Mont. 68, 684 P.2d 1101 (1984); *In re* Stroer, 672 P.2d 1158 (Okla. 1983).

169. In Schofield v. White, 250 Iowa 571, 576, 95 N.W.2d 40, 43 (1959), decedent's spouse testified, " 'there wasn't anything he did all week that was like he would usually do.' " A neurosurgeon gave an expert opinion that there was a causal connection between the injury and subsequent personality changes. *Id.* at 578-79, 95 N.W.2d at 44. A neurologist-psychiatrist also gave testimony on this point. *Id.*

170. *See* Sinclair's Case, 248 Mass. 414, 143 N.E. 330 (1924).

171. *See* Commonwealth v. Makar, 53 Pa. Commw. 83, 416 A.2d 1155 (1980) (realization by decedent that his condition would not improve).

172. *See* McIntosh v. E. F. Hauserman Co., 12 A.D.2d 406, 211 N.Y.S.2d 482, *aff'd*, 10 N.Y.2d 892, 179 N.E.2d 514, 223 N.Y.S.2d 892 (1961).

173. Soileau v. Travelers Ins. Co., 198 So. 2d 543, 547 (La. Ct. App.), *cert. denied*, 200 So. 2d 665 (1967); Kasman v. Hillman Coal & Coke Co., 149 Pa. Super. 263, ____, 27 A.2d 762, 764

and suspected infidelity[176] to family deaths[177] and illnesses[178] have become common defenses.

IV. Conclusion

In *Schofield v. White*[179] the Iowa Supreme Court implicitly adhered to *Sponatski* by requiring the surviving spouse to establish that "her decedent . . . was motivated by an uncontrollable impulse or in a delirium of frenzy, without conscious volition to produce death."[180] The court, however, also approved the following findings of the industrial commissioner:

> The claimant has established an unbroken chain of events flowing logically from the employment injury to the death, and that the injury was the proximate cause of the decedent taking his own life. The causal effect attributable to the injury is not overpowered or nullified by evidence of influences originating entirely outside the employment . . . . It is clear that the decedent became mentally deranged because of brain injury and as a direct result thereof involuntarily took his own life.
>
> The expert testimony that there was a brain injury here is supported by the direct evidence of a head injury and concussion followed by immediate disability and definite personality change . . . . It is clear, therefore, that this suicide was not the result of a willful intention to injure himself, but rather was the product of a mental derangement, and was not a voluntary act.[181]

When one considers that on the day of his death, the decedent was concerned with arrangements for a business he planned to buy, drove with his wife to the doctor's office on three occasions, went for a ride in the country, and had lunch with his children prior to locking himself in his room and killing himself while his wife did the dishes,[182] one wonders whether the delirium of frenzy element might be found. No delirium of frenzy appears to have existed. However, a conscious volition on decedent's part to produce

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(1942) (neighbor testified no change had occurred).

174. *See, e.g.*, Reynolds Metal Co. v. Industrial Comm'n, 119 Ariz. App. 566, 582 P.2d 656 (1978) (question of whether domestic difficulties or back pain led to suicide); Jakco Painting Contractors v. Industrial Comm'n, 702 P.2d 755 (Colo. Ct. App. 1985) (Wife and children left decedent and went to shelter for battered women. Decedent threatened suicide if spouse did not contact him. She did not, and he carried out his threat. Benefits awarded); Seal v. Effren Fuel Oil Co., 284 A.D. 795, 135 N.Y.S.2d 231 (1954) (decedent hung himself while in jail after severely beating wife).

175. *See* Meils v. Northwestern Bell Tel. Co., 355 N.W.2d 710 (Minn. 1984).

176. Consula v. Town of Harrison, 16 A.D.2d 848, 227 N.Y.S.2d 585 (1962).

177. *In re* Stroer, 672 P.2d 1158 (Okla. 1983).

178. Schofield v. White, 250 Iowa 571, 95 N.W.2d 40 (1959).

179. *Id.* at ____, 95 N.W.2d at 46.

180. *Id.* at ____, 95 N.W.2d at 44-45.

181. *Id.* at ____, 95 N.W.2d at 44, 46.

182. *Id.* at ____, 95 N.W.2d at 44-45.

his death did exist.

The *Schofield* holding presents a conflict. Did the court use the language of the *Sponatski* standard, but in reality approve the chain of causation standard? The affirmed findings of the industrial commissioner referred to an unbroken chain of events and employed proximate cause language. The industrial commissioner seemingly evaluated the potential for other contributing and predisposing factors. Finally, the industrial commissioner considered the fact that the decedent had suffered a head injury and that the suicide was the product of mental derangement.[183] These findings are more in line with the chain of causation test[184] or even the New York rule,[185] rather than the *Sponatski* standard.

The Iowa Supreme Court has always been progressive in matters of workers' compensation. Wherever possible, the law has been liberally interpreted to benefit the working person. The *Sponatski* standard is eroding as jurisdiction after jurisdiction changes to a chain of causation test.[186] Every likelihood exists that when the Iowa Supreme Court alleviates the conflict and confusion attributable to the *Schofield* decision, Iowa will become a chain of causation state. The practitioner, whether representing the claimant or defendant, should be prepared to present a case in such a way that the claim would be found compensable or noncompensable under either test.

183. *Id.*
184. *See supra* notes 33-36.
185. *See supra* notes 37-41.
186. *E.g.*, Schofield v. White, 250 Iowa 571, 95 N.W.2d 40 (1959).