

WORKERS'  
COMPENSATION  
CARRIER ABUSE  
AND THE THIRD  
PARTY TORT CASE



“We are dedicated to seeking justice for individuals who have been harmed during the claims process by workers’ compensation carriers and their third party administrators.”



LEOPOLD & KUVIN<sup>PA</sup>  
CONSUMER JUSTICE ATTORNEYS

“TOGETHER WE CAN ACHIEVE JUSTICE.”



harm that is separate and distinct from the original workplace injury.\*\*

This misconduct must be so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency.\* In evaluating a case against either a workers' compensation carrier, its third party administrator, or the workers' compensation defense attorney, careful scrutiny must be given to the facts of the case to determine the level of misconduct shown.

If outrageous and extreme conduct took place and a separate injury is found as a result of that conduct, then a successful cause of action for intentional infliction of emotional distress against the carrier, the carrier's third party administrator and/or defense attorney can be plead.

\*Florida Supreme Court in *Aguilera v. Inservices, Inc.*, 905 So. 2d 84 (Fla. 2005)

\*\**Steadman v. Liberty Mut. Ins. Co.*, 932 So. 2d 1034 (Fla. 2006)



“The Aguilera Case stands for the proposition that the workers’ compensation system was never designed to be used by insurance carriers as a weapon to harm individual employees during the claims process.”

The workers’ compensation system’s fundamental role is to establish a system of exchange between employees and employers, as well as employees and the insurance carriers, to promote efficiency and fairness. The system was never designed to be used by employers or insurance carriers as a weapon to harm individual employees during the claims process.

In fact, the workers’ compensation laws are only intended to provide employers and insurance carriers with immunity against negligent workplace conduct which produce workplace injury, not

immunity or a shield for those engaged in intentional tortious conduct against the workers.\*

While the mere delay of payments or simple bad faith in handling workers’ compensation claims are not actionable torts; Florida does recognize the tort of intentional infliction of emotional distress in a worker’s compensation case.

To bring an action for intentional infliction of emotional distress, a plaintiff must be able to specifically demonstrate that the carrier’s misconduct during the claims process caused



Leopold-Kuvin has successfully litigated and are leaders in the passionate pursuit of justice for individuals who have suffered intentional infliction of emotional distress at the hands of Workers’ Compensation Carriers, Third Party Administrators and Workers’ Compensation Defense Attorneys. Our knowledge and experience in this challenging area of litigation can benefit your clients.

We co-counsel cases throughout Florida. For information, call 1.877.515.7955.

Leopold-Kuvin is Passionate and Committed, and Justice is Our Goal.

