Suicide may be made the basis of a defense against a workmen's compensation claim in several ways. The most direct is reliance on the specific defense, present in 43 state statutes\(^1\) and in the Longshoremen's\(^2\) and United States Employee's Compensation Acts,\(^3\) of suicide or intentional self-injury. It may also be argued that suicide does not arise out of the employment, since the source of harm is personal. It can be said that suicide is not accidental, but rather intentional. It could even be argued that suicide is a departure—indeed the most irrevocable and final of all possible departures—from the course of employment. Discussion of the suicide defense is simplified, however, by the fact that, whatever the approach taken, the ultimate rule of law appears to be the same. The issue boils down to one of proximate cause versus independent intervening cause.

Most cases in this field present the same pattern of facts: a severe, or extremely painful, or hopelessly incurable injury, followed by a deranged mental state ranging from depression to violent lunacy, followed in turn by suicide. The basic legal question seems to be agreed upon by almost all authorities: It is whether the act of suicide was an intervening cause breaking the chain of causation between the initial injury and the death. The only controversy involves the kind or degree of mental disorder which will lead a court to say that the self-destruction was not an independent intervening cause.

Since the law on this issue has undergone a substantial change in recent years, and is still changing, a quick summary of the broad outlines of the story may be helpful before a detailed analysis is undertaken.

At one time the field was dominated by the "voluntary willful
choice” test, sometimes called the rule in Sponatski’s Case, under which compensation in suicide cases was not payable unless “there followed as the direct result of a physical injury an insanity of such violence as to cause the victim to take his own life through an uncontrollable impulse or in a delirium of frenzy without conscious volition to produce death.” This doctrine was gradually displaced as majority rule by the “chain-of-causation” test, which found compensability if the injury caused the deranged mental condition which in turn caused the suicide.

Under the chain-of-causation test there remains, however, some room for uncertainty on precisely how deranged the decedent’s mind must have been. New York has repeatedly emphasized the necessity for some brain derangement as distinguished from severe melancholy. Other chain-of-causation jurisdictions have employed varying terms to describe the requisite mental condition, sometimes similar to those used by New York, sometimes not as exacting. Moreover, even in states that might nominally still appear to adhere to the Sponatksi rule, the application of the rule in practice may produce results difficult to distinguish from those in chain-of-causation jurisdictions.

I. THE VOLUNTARY WILLFUL CHOICE TEST

Most of the American jurisdictions that were first to deal with the suicide defense began by taking over bodily the rules of tort law on this subject. Sponatski’s Case, whose formula is that most often found repeated in these cases, said:

This decision rests upon the rule established in Daniels v. New

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5. Id. at 530, 108 N.E. at 468.
6. See notes 39, 47-49 infra & accompanying text.
7. Jurisdictions which currently appear to recognize the Sponatski rule—to the extent that there have appeared no subsequent cases broadening, ignoring, abandoning or producing results inconsistent with it—including the following:

Iowa: Schofield v. White, 250 Iowa 571, 95 N.W.2d 40 (1959). An employee suffered severe injuries as the result of an on-the-job fall. One week later the worker took his own life. There was expert testimony that the antecedent accident caused mental derangement which was the proximate cause of the suicide. An award was resisted on the ground that the injury was caused by the employee’s willful intent to injure himself. The court held the death compensable, stating that the widow had satisfactorily proved that her husband “was motivated by an uncontrollable impulse” or was “in a delirium of frenzy, without conscious volition to produce death.” Id. at 581, 95 N.W.2d at 45.
That rule applies to cases arising under the workmen's compensation act. It is that, where there follows as the direct result of a physical injury an insanity of such violence as to cause the victim to take his own life through an uncontrollable impulse or in a delirium of frenzy "without conscious volition to produce death, having a knowledge of the physical consequences of the act," then there is a direct and unbroken causal connection between the physical injury and the death. But where the resulting insanity is such as to cause suicide through a voluntary willful choice determined by a moderately intelligent mental power which knows the purpose and the physical effect of the suicidal act, even though choice is dominated and ruled by a disordered mind, then there is a new and independent agency which breaks the chain of causation arising from the injury.9

Armed with this formula, courts have plunged into the murky depths of every conceivable kind of broken and anguished mind, and have tried to classify the cases as compensable or not, according to whether the employee killed himself through a voluntary (though insane) choice or through a delirious impulse. The compensable cases are frequently marked by some violent or eccentric method of self-destruction, while the noncompensable cases usually present a story of quiet but ultimately unbearable agony leading to a solitary and undramatic suicide. For example, compensation claims were successful in the case of a worker who, maddened with pain as a result of getting hot lead in his eye, jumped from a hospital window;10 in a similar case of a worker who, during acute melancholia attending his hospitalization for physical injuries, leaped from a window;11 in the case of a man who, driven to distraction by the pain of phlebitis, became violent in his home, struck his step-daughter, and then rushed


New Jersey: Konazewska v. Erie R.R., 132 N.J.L. 424, 41 A.2d 130 (Sup. Ct.), aff'd, 133 N.J.L. 557, 45 A.2d 315 (Ct. Err. & App. 1945). The employee committed suicide following a period of manic-depressive psychosis caused by a work-connected injury. Causal relation between the injury and the derangement, and between the derangement and the suicide, was established by expert testimony. But compensation was denied because of the presence of the element of conscious volition.


8. 183 Mass. 393, 67 N.E. 424 (1903); see RESTATEMENT (SECOND) OF TORTS § 455 (1965) (largely reproduces formula).


out and hanged himself;\textsuperscript{12} in the case of a worker who, morbidly depressed after a spinal injury, succeeded in starving himself to death;\textsuperscript{13} in the case of an employee who, in the course of a drinking episode to kill the severe pain of his aggravated osteo-arthritis, locked himself in the cellar and stabbed himself in the neck with a knife;\textsuperscript{14} and in the case of a decedent who, after severe depression and confinement in a mental hospital following a hand injury, thrust his head against a running power saw.\textsuperscript{15} But denials were issued when the employee's suicide, though motivated by unbearable pain, took the form of walking into a cornfield, after talking sensibly to neighbors, and shooting himself;\textsuperscript{16} of traveling to Canada and committing suicide in a lonely hotel room;\textsuperscript{17} and of waiting until the family had gone to Sunday school before committing the act.\textsuperscript{18}

Much of the evolution of the law on the suicide defense has been described and measured in the form of appraisals of the extent to which the \textit{Sponatski} doctrine has been modified or abandoned. Unfortunately for the cause of clarity, however, the \textit{Sponatski} doctrine is not a unitary concept, but contains two components. As a result, when it is announced that a jurisdiction has accepted or rejected or narrowed the \textit{Sponatski} rule, the statement is apt to be confusing unless the announcement also specifies that it is referring to one or the other or both of the components—and almost no opinion on record has been this specific.

The two components may be labeled, for brevity, the "uncontrollable-impulse" factor and the "knowledge-of-physical-consequences" factor.

A moment's reflection will confirm that these two elements deal with somewhat different mental or emotional conditions. \textit{Uncontrollable impulse has to do with the will; knowledge of consequences has to do with the understanding.}

It is abundantly evident that the second element is traceable to

\begin{itemize}
\item \textsuperscript{12} McFarland v. Department of Labor & Indus., 188 Wash. 357, 62 P.2d 714 (1936).
\item \textsuperscript{13} Sinclair's Case, 248 Mass. 414, 143 N.E. 330 (1924).
\item \textsuperscript{14} Kelly v. Sugarman, 5 App. Div. 2d 1023, 173 N.Y.S.2d 41 (3d Dep't 1958).
\item \textsuperscript{15} Karlen v. Department of Labor & Indus., 41 Wash. 2d 301, 249 P.2d 364 (1952).
\item \textsuperscript{17} Barber v. Industrial Comm'n, 241 Wis. 462, 6 N.W.2d 199 (1942).
\item \textsuperscript{18} Industrial Comm'n v. Brubaker, 129 Ohio 617, 196 N.E. 409 (1935).
\end{itemize}
the criminal law test of insanity in M'Naghten's Case. But there is a decisive difference between the role of "insanity" in criminal law murder cases and in workmen's compensation suicide cases. It can well be argued in a criminal case that the accused's understanding is a crucial element, since it is necessary to the establishment of criminal intent. But in the suicide defense in workmen's compensation cases, the only legal issue is causation, and this in turn depends on the will, not on the understanding. If the injury so acts upon the will that it is not operating independently at the time of the suicide, then the chain of causation is clear, since there is no independent intervening cause. Whether the decedent knew the physical consequences of his act is utterly irrelevant to this question of causation. Using Sponatski's own words, if the injury produced a literally uncontrollable impulse to suicide, how can causation theory demand more? Postulate that the decedent as a result of his injury was driven by an uncontrollable impulse to produce what he understood perfectly well was his own physical death. To say that such an act was causally independent of the injury is to defy the plain meaning of words.

It is significant that, either tacitly or expressly, almost all courts in modern time have recognized the illogic of grafting the knowledge-of-physical-consequences component onto the causation rules governing the suicide defense. Indeed, there appears to have been only one case reported in the last quarter-century in which the knowledge-of-consequences component of Sponatski figured in a denial of compensation, and that was a four-to-three Pennsylvania intermediate court decision, with a vigorous dissent attacking the importation of the M'Naghten criminal law standard into compensation law. The Sponatski case itself was reversed legislatively, and in Wisconsin a similar rule was reversed judicially. One has the distinct impression

22. Massachusetts amended its statute to provide for compensation when "due to the injury, the employee was of such unsoundness of mind as to make him irresponsible for his act of suicide," Mass. Gen. Laws ch. 152, § 26 (1937).

In Wisconsin, this result was achieved judicially in Brenne v. Department of Labor, Indus. & Human Relations, 38 Wis. 2d 84, 156 N.W.2d 497 (1968). The decedent, a lineman, received a severe electrical shock in the course of his employment, and sustained multiple burns to various parts of his body. He later committed suicide. The Wisconsin Act allows recovery only "when the injury is not intentionally self-inflicted."
that the old knowledge-of-consequences ingredient survives in a jurisdiction like New Jersey pending only a suitable opportunity for reversal to bring the rule in line not only with the modern view in other states but also with the spirit of the state's own interpretation of its compensation law in many other areas.

Even with the knowledge-of-consequences component of Spontatski largely written off, there remains to be considered the uncontrollable-impulse component. In some jurisdictions, it will be found that courts still cite the Spontatski rule as their take-off point, and then go on to apply that rule as if the only component were the uncontrollable-impulse requirement. Such jurisdictions, whether they realize it or not, have cut out of Spontatski the feature that is at once the most distinctive and the most indefensible. If they then go on to give a rather flexible meaning to uncontrollable impulse, as many of them do, the net effect is that they have joined the company of those states which have expressly renounced Spontatski and put in its place the straight chain-of-causation test.

The State of Washington provides an interesting example of how Spontatski can be "modified" almost out of existence without quite being disavowed. For many years, and as recently as 1968, Washington was considered to be in the Spontatski column. Then, in 1969, came the Schwab case. It had been before the Supreme Court three years

Relying on Barber v. Industrial Comm'n, 241 Wis. 462, 6 N.W.2d 199 (1942), note supra & accompanying text, and on the statute, the hearing examiner denied compensation. The Wisconsin Supreme Court remanded the case for reconsideration and further hearing, declaring:

The burden of proof is on the claimant to establish by substantial evidence that the "chain-of-causation" exists. The claimant does this by showing that the industrial injury caused the suicide. . . .

[T]he act of suicide cannot then be said to be willful or intentional within the meaning of the statute since its causation ultimately relates back to the original injury, rather than existing as an independent and intervening cause.

Id. at 86, 156 N.W.2d at 501.

25. Mercer v. Department of Labor & Indus., 74 Wash. 2d 96, 442 P.2d 1000 (1968). A decedent who was injured at work suffered a painful infection and underwent several operations before committing suicide. The court held that the death was compensable only if decedent acted under an uncontrollable impulse or while in a delirium, and this could only be established by competent medical evidence.
earlier, but the Court on that occasion had been able to decline to go into the question whether Sponatski was out of date, since the first appeal could be disposed of by a mere holding that there was evidence to take the case to the jury even within the law as laid down in existing decisions.

The decedent in Schwab had had a history of alcoholism and mental instability for some years before his injury and also had made as many as four to eight suicide attempts. He had sustained a compensable back injury, as a result of which he continued to have pain in his back and legs. There was medical testimony that his condition could probably no longer be helped by surgery, and that the only problem was how to obtain relief from pain. After the injury, decedent made two additional attempts to commit suicide, and then on the third attempt succeeded, through the use of an overdose of sleeping pills. The two doctors, a psychiatrist and a general practitioner, who were witnesses for claimant testified that the back injury was probably the "major contributing cause" and the "triggering cause" of the suicide. They testified that "his defenses were down" so that his suicidal tendencies controlled his actions.

In affirming an award, the Supreme Court of Washington reviewed the earlier Washington cases and concluded:

This review of our prior decisions on the questions at hand indicates that while we started with and adhere to the requirement of a direct causal relationship between a workman's industrial injury, insanity, and resulting self-destruction, we have tended to lean away from characterizing, in the traditional tort sense, volitional or conscious suicidal acts as an independent intervening cause precluding compensation. Rather, it appears that we have inclined more toward looking upon RCW 51.32.020 as erecting a statutory bar between cause and a proximately related result. Likewise, it would appear that we have broadened, somewhat, the concept, found in In re Sponatski, 220 Mass. 526, 108 N.E. 466 (1915), that an injury occasioned suicidal death to be compensable must occur from an uncontrollable impulse or in a delirium of frenzy without conscious volition to produce death, by extending it to include irresistible impulse, delirium caused by injury related drugs, pain, and suffering and/or other forms of acute dementia, any of which render the injured workman incapable, at the pertinent time, of forming a volitional and deliberate intent to commit suicide.

28. 76 Wash. at 791-92, 459 P.2d at 5-6.
Where does this leave the rule in Washington? Perhaps the most significant feature of the case is what the court did, rather than what it said. When a man has made four to eight attempts to commit suicide before his injury, and three after his injury, with the last taking the most quiet and undramatic form of all, an overdose of sleeping pills, it requires some strain to equate the fact situation with the *Sponatski* picture of a man, maddened by hot lead splashed in his eye, jumping from a window. The willful intent to commit suicide seems to have been present in *Schwab* not just once but three times following injury, and perhaps a dozen times in all. In this one case, then, we seem to see the knowledge-of-consequences component of *Sponatski* jettisoned altogether, and the uncontrollable-impulse component stripped of its "delirium of frenzy" connotations and given an interpretation essentially related to causation.

In Minnesota, two cases decided in 1960 are also notable for the absence of real *Sponatski* substance accompanying the lip service paid by Minnesota to the *Sponatski* doctrine. In *Anderson v. Armour & Co.*, a truckdriver underwent a psychotic depression after hitting a pedestrian in the course of his employment. One week after the accident, he slashed his wrists. The court held that "one may commit an act knowing it was wrong and with full realization of its consequences, yet the act may be the result of insanity rather than the individual's own conscious act." Nothing could be a plainer disavowal of the first component of *Sponatski* than this reference to "full realization" of the consequences of the act, and to "knowing it was wrong." The court found that the suicide was the result of an uncontrollable impulse, the implication being that this in itself satisfied *Sponatski*. Note that here there was no "delirium of frenzy," no spectacular act of self-destruction, not even an initial traumatic injury —only a week of psychotic depression followed by a slashing of wrists.

In the second case, *Olson v. F. I. Crane Lumber Co.*, not only the knowledge-of-consequences component but even the irresistible-impulse component seems to have disappeared. The claimant, after a compensable heart attack, became extremely depressed and soon developed mental illness, which deteriorated to the point where he was severely disoriented. He imagined that people were trying to

29. 257 Minn. 281, 101 N.W.2d 435 (1960).
30. *Id.* at 289, 101 N.W.2d at 440.
31. 259 Minn. 248, 107 N.W.2d 223 (1960).
harm him, and that the Devil was after him. He committed suicide by strangulation. The court affirmed an award on the ground that the suicide was caused by a “psychotic reaction,” which was in turn caused by the work-related heart attack. The decision is difficult to distinguish, both in approach and in result, from decisions produced in chain-of-causation states, but it should be pointed out that Minnesota has subsequently asserted that *Sponatski* is still the law in Minnesota.\(^{32}\)

Two federal cases have also demonstrably carved out of *Sponatski* all trace of the knowledge-of-consequences component. In a Fifth Circuit decision applying the Longshoremen’s Act,\(^{33}\) it seems clear from the facts that the employee was aware that his action would produce death. Nevertheless the court, in effect making *Sponatski* synonymous with “irresistible impulse,” said that the case would be compensable under either *Sponatski* or the chain-of-causation test. Similarly, in another federal case arising under the Longshoremen’s Act,\(^{34}\) the court said, after describing both the *Sponatski* and chain-of-causation rules, that “it is sufficient for the purposes of our case” to state that if the injury caused a mental disease or defect which in turn was responsible for the employee’s impulse to take his own life, and so far impaired the ability to resist that impulse that the decedent was in fact unable to control it, the suicide could not be termed willful under the act.

Other jurisdictions occupying the in-between ground,\(^{35}\) in which

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33. Voris v. Texas Employers Ins. Ass’n, 190 F.2d 929 (5th Cir. 1951), *cert. denied*, 342 U.S. 932 (1952). The Longshoremen’s and Harbor Workers’ Compensation Act, 33 U.S.C. § 903(b) (1970), contains a defense of causation “solely” by the willful intention of the employee to kill or injure himself. It is interesting to note that the court expressed a definite preference for the chain-of-causation rule.


35. Another noncommittal position is that since the facts would come within either *Sponatski* or the chain-of-causation test, the court is not obliged to consider whether *Sponatski* should be liberalized. This was the position followed in Jackson Hill Coal & Coke Co. v. Slover, 102 Ind. App. 145, 199 N.E. 417 (1936), in which the facts actually showed that the employee could not tell right from wrong, and did not know whether he was killing himself. *See also* Voris v. Texas Employers Ins. Ass’n, 190 F.2d 929 (5th Cir. 1951). Maryland has also taken a noncommittal stance, but with a preference for the chain-of-causation rule. In Baber v. John C. Knipp & Sons, 164 Md. 55, 163 A. 862 (1933), the chain-of-causation test was quoted with approval,
Sponatski is bent in varying ways without being avowedly broken, include Ohio\textsuperscript{36} and Pennsylvania.\textsuperscript{37}

II. CHAIN-OF-CAUSATION TEST

It is quite possible to accept the legal principle of independent intervening cause as the controlling issue in these cases and still, as the original British decisions\textsuperscript{38} and the majority of modern American decisions\textsuperscript{39} have done, hold that the intervening cause issue turns not but since the case turned solely on the causal connection between the injury and the brain derangement, it was not necessary to adopt the test specifically in order to decide the case.

36. For a time, Ohio appeared to apply a test similar to Sponatski. See, e.g., Industrial Comm'n v. Brubaker, 129 Ohio 617, 196 N.E. 409 (1935). Whether the decedent was so insane that he could not entertain a “fixed purpose” to take his own life was the determinative issue. But a jury charge reflecting a substantially different rule was approved in Burnett v. Industrial Comm'n, 87 Ohio App. 441, 93 N.E.2d 41 (1949). The approved charge required only that the employee’s mind be so deranged that he killed himself “wholly without his own volition.” This instruction obviously puts the entire stress on the element of “will.” The conspicuous absence of any reference to lack of knowledge of the consequences of the act appears to put Ohio in line with the trend toward eliminating the “understanding” component of Sponatski. The decision was not, however, one by Ohio’s court of last resort, and consequently the Ohio position is still somewhat uncertain.


In Blasczak v. Crown Cork & Seal Co., 193 Pa. Super. 422, 165 A.2d 128 (1960), the employee hanged himself four and one-half months after a compensable loss of a leg. The Pennsylvania rule requires a showing of “uncontrollable insane impulse” to defeat the statutory defense of intentional self-injury. Although the employee seemed normal on the day of hanging, one psychiatrist testified that the employee was “out of his mind.” On the strength of his testimony, an award was affirmed.

38. King v. Blades, 69 York Leg. Rec. 97 (1955). Compensation was awarded for a suicide on evidence only that decedent was severely nervous and depressed, without even finding the existence of a psychosis. The court squeezed the case within the Sponatski rule by observing that it was inconceivable that anyone not in the grip of an uncontrollable impulse would kill himself in such a violent way, shooting himself with a shotgun. Indeed, the court questioned whether a sane person would ever commit suicide. See Marriott v. Maltby Main Colliery Co., 13 B.W.C.C. 353 (1920); Graham v. Christie, 10 B.W.C.C. 486 (Scot. 1916).

39. Arizona: Graver Tank & Mfg. Co. v. Industrial Comm'n, 97 Ariz. 256, 399 P.2d 664 (1965). Claimant was in continuous pain following a compensable accident and, as a result, shot himself. The court criticized In re Sponatski, and said the test should be that when the work-connected injuries suffered by the employee result in his becoming both devoid of normal judgment and dominated by a disturbance of mind directly caused by his injury and its consequences, the self-inflicted injury cannot be considered “purposeful” and should be compensable. Baxter v. Industrial Comm'n, 6
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Ariz. App. 156, 430 P.2d 735 (1967). Decedent suffered several back injuries, and over a period of eight years had several operations and severe pain, and used drugs to excess. On the day of his death, decedent was speeding in his car, and after a long chase was finally stopped by a deputy sheriff. Decedent pulled out a gun, and after making several threats was shot by the deputy. His actions were caused by either an unconscious suicide wish or a sham aggression, both of which had their roots in the earlier injuries. The court held that in this case, as in suicide cases, the employment caused the death, and therefore a denial of death benefits was error.

California: Beauchamp v. Workmen's Compensation Appeals Bd., 259 Cal. App. 2d 147, 66 Cal. Rptr. 352 (2d Dist. 1968). Decedent, a teacher, suffered a back injury, and became unable to teach full time. He lost his job, and was only able to find work as a substitute. A short time after being denied reconsideration of an award which he considered inadequate, decedent committed suicide. There was no evidence that decedent did not know what he was doing, but the psychiatrist testified that the injury and loss of work caused a state of hopelessness, and without the injury decedent would not have committed suicide. Denial of death benefits reversed. Burnight v. Industrial Acc. Comm'n, 181 Cal. App. 2d 816, 5 Cal. Rptr. 786 (1st Dist. 1960).


Massachusetts: See statutory amendment cited note 22 supra. The statute was applied in Oberlander's Case, 348 Mass. 1, 200 N.E.2d 268 (1964), in which the court observed that the amendment was "unquestionably" inspired by Sponatski.


Mississippi: Prentiss Truck & Tractor Co. v. Spencer, 228 Miss. 66, 87 So. 2d 272 (1956). Depression subsequent to a back injury was deemed to be a result of that injury and impaired the reasoning faculties to such an extent that the act of self-destruction was not voluntary and willful within the meaning of the statute.

New York: New York generally follows the chain-of-causation rule. What is sometimes identified as a distinctive New York rule goes to the nature of the requisite "brain derangement," not to the causal principle. See text accompanying notes 47-49 infra. Cases applying the basic chain-of-causation approach include the following:


The same test is applied in denials. Estate of Vernum v. State Univ., 4 App. Div. 2d 722, 163 N.Y.S.2d 727 (3d Dep't 1957). Compensation denied because the suicidal act six months after heart attack was not the product of mental disease which resulted from the compensable injury.


Pushkarowitz v. A. & M. Kramer, 275 App. Div. 875, 88 N.Y.S.2d 885 (3d Dep't 1949), aff'd, 300 N.Y. 637, 90 N.E.2d 494 (1950). This case affirmed an award on a finding that due to certain physical injuries "the decedent was caused to suffer from a depressive psychosis and that he attempted suicide"—with no discussion of the issue of knowing the nature of the act.

on the employee's knowledge that he is killing himself, but rather on the existence of an unbroken chain of causation from the injury to the suicide. In one of the pioneering American statements of this position, Judge Fowler, dissenting in **Barber v. Industrial Commission**, argued along lines which have always been considered sound proximate cause doctrine, that if the first cause produces the second cause, that second cause is not an independent intervening cause. The question whether the actor appreciated the consequences of his act should not be decisive of the fundamental question whether that act was the natural and foreseeable result of the first injury. To say that it was not such a result, one must take the position that it is unforeseeable that a man in unbearable pain will knowingly take his own life. That position is simply untenable, and if any evidence is needed, the number of compensation cases presenting these facts should be proof enough. If the sole motivation controlling the will of the employee when he knowingly decides to kill himself is the pain and despair caused by the injury, and if the will itself is deranged and disordered by these consequences of the injury, then it seems wrong to say that this exercise of will is "independent," or that it breaks the chain of causation. Rather, it seems to be in the direct line of causation.

An effective statement of this theme may be found in the California case of **Burnight v. Industrial Accident Commission**. The decedent, who had a prior history of manic depressive psychosis, suffered...
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a number of frustrations and difficulties in the course of trying to supervise construction of a paint plant in Mexico. He began to display symptoms such as palpitations, night sweats, and indecision, and finally was given medical and psychiatric attention and was even hospitalized. After his discharge, he registered in a cheap hotel and slashed his wrists. An award of compensation was upheld. The court said:

Modern psychiatry knows that a manic depressive condition operates to break down rational mental processes, placing the person afflicted in a mental state in which death actually seems more attractive than living, and in which he may not only have a conscious volition to produce death, but be eager to do so.44

The court continued:

It is unreasonable and unrealistic to hold that suicide occurring when the employee is in such a state is not the result of the industrial injury when the manic depressive state is. If suicide is a result which may be expected from a manic depressive condition, how can such a result be said to be intentionally self-inflicted, even though the person may know what he is doing and its results? The manic depressive condition provides the irresistible impulse. Mere realization of the nature and effect of the suicidal act cannot be controlling.45

The New York cases for some years appear in effect to have adopted the chain-of-causation test, by virtue of making awards in which a simple statement that the injury caused the mental disorder from which suicide followed has seemed to suffice.46 The emphasis is on a showing of genuine brain derangement—as distinguished from mere melancholy, discouragement, or other sane conditions47—aided

44. Id. at 826, 5 Cal. Rptr. at 793.
45. Id. at 827, 5 Cal. Rptr. at 794.
46. See New York cases cited note 39 supra.
by but not entirely dependent on medical testimony without attempting to test the exact form or degree of the derangement by the old Sponatski formula of "voluntary willful choice" and "knowledge of nature of the act."

Louisiana appears to have adopted the New York rule in the case of Soileau v. Travelers Insurance Co. Decedent suffered a compensable injury, and later committed suicide. The testimony tended to show that the deceased was neurotic, and took her life as a result of depression or melancholy. Death benefits were denied, the court stating that in order for benefits to be payable, it must be shown that the suicidal act was the product of some form of insanity, mental disease, mental derangement, or psychosis, which resulted from the injury.

Similarly, in England it was never enough to show mere brooding or depression. There must have been actual "insanity," which might be negated by such circumstances as the leaving of a rational note showing a deliberate and reasoned decision that suicide was the best course.


49. Franzoni v. Loew's Theatre Realty Co., 22 App. Div. 2d 741, 253 N.Y.S.2d 505 (3d Dep't 1964). Decedent had suffered two compensable injuries. As a result, he developed a depressed state which led to his death by suicide. The court denied compensation, holding that the suicide must be caused by brain derangement or psychosis and not mere depression.

52. Bevan v. Lancasters Steam Coal Collieries, 20 B.W.C.C. 241 (1927). See also Widdis v. Collingdale Millwork Co., 169 Pa. Super. 612, 84 A.2d 259 (1951). Parts of two fingers of employee were amputated by a cutting machine, and six days later he committed suicide. Court rejected contention that he killed himself in a fit of depression as a result of the accident because his suicide notes did not reveal a deranged mind.
III. ORIGIN IN WORK-CONNECTED INJURY

Although it is sometimes said that the suicide must stem from a "compensable physical injury," this statement is unduly restrictive. The correct statement is that the suicide must be the result of some injury arising out of and in the course of employment. In other words, at the very outset an injury must be found which itself arose out of and in the course of employment, to which the suicide is directly traceable. If there is no such employment-connected injury setting in motion the causal sequence leading to the suicide, or if there are far stronger non-employment influences accounting for the suicide, the suicide is a complete defense. Thus, when an employee was observed running through the plant clutching his head in pain, and was later found to have thrown himself out of a window, compensation was denied because there was no industrial injury as the initial cause. The same holding followed when the evidence showed

53. In re Oberlander's Case, 348 Mass. 1, 200 N.E.2d 268 (1964). Decedent committed suicide. He had received a compensable injury to one hand 11 years before. For the two years previous to his death he had developed a dislike for out-of-town work, and had lost his job as a result. It was held that claimant had not established that the death was caused by a compensable personal injury.

White v. Kitty Clover Co., 409 P.2d 637 (Okla. 1965). Claimant committed suicide after being involved in a slight traffic accident from which he received no injuries. He had a long history of mental problems and at best the accident was merely a "triggering mechanism." Compensation denied, on ground that there was no physical injury involved in the accident.

54. Seal v. Effron Fuel Oil Corp., 284 App. Div. 795, 797, 135 N.Y.S.2d 231, 233 (3d Dep't 1954): "Remorse and depression are not sufficient for awarding compensation if they are not primarily caused by the accident, but are due to tendencies which long antedated the accident." Decedent had been a person of unstable, violent, and assaultive disposition long before his accident which injured his back. Hence, compensation denied for his suicide by hanging himself in jail where he had been committed for assaulting his wife. Berdy v. Glen Alden Corp., 202 Pa. Super. 525, 198 A.2d 329 (1964). Suicide not causally related to silicosis. Compensation denied.

55. Consula v. Town of Harrison, 16 App. Div. 2d 848, 227 N.Y.S.2d 585 (3d Dep't 1962). Employee committed suicide five years after suffering a herniated disc. His reactive depression was traced to the death of his sister rather than the back injury. Compensation denied.

nothing but the impetuous drinking of a bottle of acid during working hours.\textsuperscript{57} And, in another case, evidence of a relatively trivial injury—getting dust in the eye—which required only first-aid treatment, did not suffice to supply the necessary industrial link to suicide three months later, although the workman had acted a little strange at the time of the mishap.\textsuperscript{58}

This does not mean, however, that it is necessary to show that the first injury resulted in the kind of disability that would in itself have technically entitled the claimant to compensation. For example, in \textit{Wilder v. Russell Library Co.},\textsuperscript{59} a librarian suffered a physical and nervous breakdown due to overwork and worry and committed suicide when her condition developed into insanity. Although there was a history of predisposition to mental trouble in her family, compensation was awarded on the ground that the suicide was the direct result of the employment. Similarly, in \textit{Trombley v. State of Michigan},\textsuperscript{60} an employee of the Coldwater State Home and Training School had been questioned by a legislative committee which was investigating the death of a patient at the Home. He heard on the evening news broadcast that the committee was preparing to continue the investigation. Up to that time, the employee "had felt aggrieved" by the accusations made against him, but merely "threw up his hands and went to bed" on hearing the latest news. The next day he slipped out of the house, drove a mile to a secluded spot, and shot himself with a rifle. Compensation was affirmed by an equally divided court.\textsuperscript{61}

At this writing, there are few such examples of suicide preceded by no definite physical injury.\textsuperscript{62} But the rapid development of the

\textsuperscript{57} Shewczuk v. Contrexeville Mfg. Co., 53 R.I. 223, 165 A. 444 (1933). \textit{See also} Lopez v. Kennecott Copper Corp., 71 Ariz. 212, 225 P.2d 702 (1950) (evidence was held to support a finding that claimant tried to blow himself up for no known reason).

\textsuperscript{58} Veloz v. Fidelity-Union Cas. Co., 8 S.W.2d 205 (Tex. Civ. App. 1928).

\textsuperscript{59} 107 Conn. 56, 139 A. 644 (1927).

\textsuperscript{60} 366 Mich. 649, 115 N.W.2d 561 (1962).

\textsuperscript{61} Three judges would have reversed because "it may not be said that his act was committed in a moment of insane frenzy or as the result of an irresistible or uncontrollable impulse." \textit{Id.} at 661, 115 N.W.2d at 567. The three affirming justices rejected the theory of the \textit{Sponatski} case and affirmed compensation on the grounds that "Trombley's mental disorder was caused by the legislative committee's investigation and that it so impaired his reasoning facilities that his act of suicide was not voluntary and, therefore, not intentional or willful within the meaning of the statutory provision." \textit{Id.} at 671, 115 N.W.2d at 571.

\textsuperscript{62} The two leading cases, in addition to those cited in the text, resulting in suicide awards in the absence of physical injury are Burnight v. Industrial Acc. Comm'n, 181 Cal. App. 2d 816, 5 Cal. Rptr. 786 (1st Dist. 1960); Anderson v. Armour & Co.,
field of compensation for nervous and mental disorders suggests that as cases of suicide following a mental or nervous injury arise, awards will not be refused merely for lack of evidence of a compensable physical injury at some point.

IV. EVIDENCE AS TO MENTAL IMBALANCE

An increasingly common feature of suicide cases is the presence of expert testimony on the extent of the derangement of the decedent's mind. In many of the earlier cases, the judgment on decedent's lack of volition was apt to be an inference from the objective facts of his conduct, and, as indicated earlier, the more violent and bizarre his suicide, the more likely it was that adequate derangement would be found. In current cases it is frequently possible to have more direct evidence bearing on the abnormality of the decedent's mental condition. In some cases there is an actual history of confinement in psychiatric hospitals or mental institutions. There may be a known history of progressive mental deterioration or use of drugs and excessive drinking to kill the pain. In several cases, the decisive element in the decision appears to have been the presence or absence.

257 Minn. 281, 101 N.W. 435 (1960). Contra, Federal Rice Drug Co. v. Queen Ins. Co. of America, 463 F.2d 626 (3d Cir. 1972), holding that suicide from emotional stress caused by verbal harassment would not be compensable under the Pennsylvania statute. Note that this was an "upside-down" case, in the sense that the effect of the holding was to take the case out of the workmen's compensation exclusion clause in the employer's comprehensive business liability policy.

63. For a discussion of the current development of compensation for mental and nervous injuries, see Larson, Mental and Nervous Injury in Workman's Compensation, 23 VAND. L. REV. 1243 (1970).

64. See, e.g., Burnight v. Industrial Acc. Comm'n, 181 Cal. App. 2d 816, 5 Cal. Rptr. 786 (1st Dist. 1960), particularly the first quotation, in the text accompanying note 44 supra.


of expert testimony supporting a finding of mental imbalance as distinguished from mere depression.

This is not to say that expert testimony is absolutely indispensable in this class of cases; if the facts and circumstances are sufficiently persuasive, they may carry the burden of establishing the requisite causal nexus. In *McIntosh v. E.F. Hauserman Co.*, there was medical testimony, but it was in sharp conflict. The facts, however, were unusually strong. In 1954, the employee had sustained an electric shock, a fall from a ladder, a fractured skull, and a subdural hematoma in two regions of the brain. The employee then underwent a craniotomy. There followed a steady mental depression, coupled with convulsions of such severity as to have resulted in fractured vertebrae. The employee lost sexual interest, and became irritable and suspicious. Marked changes were observed in his personality, and his judgment displayed signs of impairment. Two and a half months after his accident he fell while emerging from a tavern and bled copiously from several lacerations. That evening he shot himself. The court held that the sequence of events from the original injury to the time of the suicide "speaks louder than any medical testimony as to the insidious breakdown of the man's mental and physical capabilities."

**V. Self-Injury Other Than Suicide**

The defense of intentional self-injury, as distinguished from the specific defense of suicide, has produced virtually no law of significance in death cases. The only uses that seem to have been made of

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(board's finding that death of claimant's husband by suicide was a result of mental derangement brought on by accidental injuries was reversed because the only doctor who testified refused to say that the decedent's mental balance had been affected, though he did state that the decedent had undergone a change of personality and had become mentally depressed as a result of the injuries).

In *Estate of Vernum v. State Univ.*, 4 App. Div. 2d 722, 163 N.Y.S.2d 727 (3d Dep't 1957), compensation was denied because it was not shown that the suicidal act was the product of some form of mental disease which resulted from the compensable injury. Hence, the suicide was attributed to the decedent's own volitional act, which constituted an independent intervening cause. The deceased, following a heart attack, had become despondent and discouraged, and about six months after the injury had committed suicide.


73. *Id.* at 409, 211 N.Y.S.2d at 485.
this defense have been fictitious. For example, in a Fifth Circuit case\textsuperscript{74} the evidence showed that the deceased had been warned by his physician that, if he engaged in hard work, it might cause his death. There was, of course, no evidence of real intent on decedent's part to injure himself, and compensation was accordingly awarded.

In one of the rare cases in which the self-injury defense was seriously urged, a Georgia court disposed of the issue by applying the chain-of-causation test drawn from suicide cases.\textsuperscript{75} Decedent had had a moderate drinking problem before his accident, but it was found that due to a combination of his pain, enforced idleness, and apprehension of surgery, the drinking problem was aggravated, and resulted in his death from alcoholic gastritis. The court held that the defense of intoxication was not applicable, in that intoxication was the medical cause of death, rather than the cause of the accident. The court further held that the proper test was to apply the "intentionally self-inflicted injury test" as a defense, and adopted what it characterized as the Arizona test\textsuperscript{6} for compensable suicides, holding such a death compensable if the suicide, or alcoholic problem, resulted from the decedent's becoming devoid of normal judgment.

\textbf{VI. Presumptions Affecting the Suicide Defense}

Up to this point, it has been assumed that the fact of suicide has been established and that the only issue has been causal connection. In a considerable number of instances, however, the key issue may be whether there was a suicide at all, rather than an accidental fall or other injury.

The starting point in most of these cases is the presumption against suicide. So strong is this universally accepted presumption that awards have been made in a number of cases in which there was a substantial amount of evidence from which suicide could have been inferred. Thus, in a Florida case,\textsuperscript{77} an employee was found asphyxiated by chlorine gas in the chlorinating room near the club's swimming pool. His death certificate actually indicated suicide, apparently partly

\textsuperscript{74} Glens Falls Indem. Co. v. Henderson, 212 F.2d 617 (5th Cir. 1954).
\textsuperscript{76} See Arizona cases cited note 39 \textit{supra}.
\textsuperscript{77} Olsen v. Winter Park Racquet Club, 142 So. 2d 5 (Fla. 1962).
because the windows were all closed. On the other hand, evidence of a satisfactory marital life, of the fact that the employee might have had an employment reason to be in the room, and of the possibility that the gas leakage could have been accidental were held sufficient to sustain the presumption against suicide. In a Michigan case,\textsuperscript{78} death from cyanide poisoning shortly after the decedent arrived home from work was held compensable, since cyanide was used in the employer's plant, about 420 feet from the decedent's work location. The presumption against suicide, and the fact that cyanide is not publicly used, supported the inference that injury arose in the course of employment. But when an experienced automobile mechanic was found asphyxiated by carbon monoxide in the gas station, with all the doors locked, and with two automobile engines running—which was unnecessary to the type of repair work to be done—the presumption against suicide was held overcome.\textsuperscript{79}

In a few jurisdictions, the general presumption against suicide may be reenforced by a particular statutory presumption of compensability, as in New York,\textsuperscript{80} which may be applicable only in cases of death or inability to testify, as in Massachusetts.\textsuperscript{81} So, in New York, we

\textsuperscript{78} Zytewick v. Ford Motor Co., 340 Mich. 309, 65 N.W.2d 813 (1954). \textit{See also} Sutter v. Industrial Comm'n, 4 Ariz. App. 392, 420 P.2d 964 (1966). Decedent had been in a tuberculosis sanitarium, which had caused financial hardship to his family. He returned to work, and was found burned to death in his car outside of the shop yard. The evidence tended to show that he had filled his car with gas and started up, and then the fire started. It was shown that filling the tank in his particular type of car often resulted in spilled gas, and that there was a jar of gas in the car which the men often carried to prime the pump. The court held that the evidence was insufficient to overcome the presumption against suicide, and a denial of death benefits was error.


\textsuperscript{80} In any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed in the absence of substantial evidence to the contrary

\begin{enumerate}
\item That the claim comes within the provision of this chapter . . . .
\item . . . .
\item That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another.
\end{enumerate}

\textit{N.Y. WORKMEN'S COMPENSATION LAW} § 21 (McKinney 1965).

\textsuperscript{81} The Massachusetts statute provides:

In any claim for compensation, where the employee has been killed, or is physically or mentally unable to testify, it shall be presumed, in the absence of substantial evidence to the contrary, that the claim comes within the provisions of this chapter, that sufficient notice of the injury has been given, and that the injury or death was not occasioned by the willful intention of the employee to injure or kill himself or another.

\textit{MASS. GEN. LAWS} ch. 152, § 7A (1947).
WORKMEN'S COMPENSATION

observe two strong presumptions, a statutory presumption of compensation coverage and a common law and statutory presumption against suicide, teamed together and pulling in the same direction. The result has been to sustain awards in some fact situations presenting what might otherwise, to put it mildly, seem persuasive evidence of suicide. In the Wetterauw case, two witnesses said they saw the employee run from the middle of the station platform and throw himself in front of the subway train. The New York Court of Appeals awarded compensation, reversing the lower court's denial based on a finding of suicide. Subsequently, instructed by this reversal, the appellate division awarded compensation where there was not only testimony of a railroad engineer and a fireman that the decedent had jumped or dived in front of the train on a clear, bright day shortly after the engineer had blown the crossing warning, but also evidence that the decedent had been under medical care for strain, had been taking tranquilizers on doctor's orders, and had just announced his forthcoming resignation from work "because the pressure was too great." The board and the court held that the presumption against suicide had not been overcome.

The line of New York cases establishing this very strong presumption against suicide in unexplained-death cases appears to date from the 1954 court of appeals decision in the Graham case. Other cases finding the evidence inadequate to overcome the presumption against suicide include:

- Mengele v. Liebmann Breweries, Inc., 11 N.Y.2d 986, 229 N.Y.S.2d 425 (1962). There was evidence of depression two years before, of an extreme nervous state two weeks before, and the impossibility of an accidental fall over a 52-inch-high concrete wall around the roof. The court reinstated the original award on the ground that the record presented only an issue of fact. Two judges dissented.

- Story v. Continental Baking Co., 15 App. Div. 2d 607, 222 N.Y.S.2d 404 (3d Dep't 1961). There was evidence that the employee was depressed and worried. The facts showed an apparent fall from the roof of a building.

- Gallagher v. Steers & Morrison-Knudsen, 12 App. Div. 2d, 830, 209 N.Y.S.2d 393 (3d Dep't 1961). The employee's body was found in a courtyard 39 1/2 feet from the vertical plane of the washroom window on the 27th floor where the employee was last seen.

- In re Ackerman's Claim, 10 App. Div. 2d 112, 197 N.Y.S.2d 674 (3d Dep't 1960). Decedent had written letters to his superiors one to four days before death about "all the heartache I am going to cause." The employee's body and an employer-
decedent in that case, whose regular duties were those of a supe-
visor and did not include adjusting the superheater where his death
occurred, told one of his crew to shut down the apparatus. He then
climbed to the top of the heater stack where there was a platform
from which the cover of the stack was sometimes adjusted. After that
no one saw what happened, but he was found burned to death with
his feet projecting out of the heater stack. Decedent himself was only
19 inches taller than the heater stack—a fact which weighed heavily
with the appellate division in its finding of suicide. On the other hand,
there was evidence that it would have been easier to adjust the stack
cover by climbing to one of the horizontal sections of the guard rail
on the platform, and that this practice was quite common. There was
evidence that decedent’s wife had recently obtained an interlocutory
decree of divorce, and that decedent had been quiet and moody on
the morning of his death. The decision reversing the denial of com-
ensation shows that the burden of overcoming the presumption
against suicide is indeed a heavy one, as long as there is any other
reasonable explanation for the sequence of events leading up to the
death. Here the decedent might have decided to do the job of ad-
justing the cover himself, although he apparently had never done it

furnished car were found in a pond 1½ miles north of his home. The court held that
the presumption of suicide does more than shift burden of proof—it remains to the
end of the case to be considered by the jury, if a fair question of fact is presented.
Compensation was affirmed.

Dep’t 1959). Decedent had suffered extreme pain from the work-connected crushing
and partial amputation of his finger. Morphine, codeine, demerol, and nembutal were
given in the hospital. After discharge, decedent was found in a comatose condition. A
nembutal capsule was found on bathroom floor although nembutal had not been pre-
scribed. Death from overdose of barbiturates was held accidental, not suicidal.

Dep’t 1954), in which there was evidence that the deceased city employee had, the day before his
death, confessed to taking bribes.

373 (3d Dep’t 1966). Decedent suffered fatal injuries when he fell from a 12th-story
window. The window sill was 36 inches high, and directly in front of it was a radiator
32 inches high which extended out 10½ inches. Decedent had attempted suicide be-
fore, and was under the care of a psychiatrist, who had warned of possible suicidal
tendencies. This was held to be sufficient evidence to rebut the presumption against
suicide.

(3d Dep’t 1953), holding the presumption against suicide overcome by the following
facts: deceased was in ill health and had a heart ailment; the physical facts indi-
cated that an accidental fall out of the window on the 18th floor was impossible; and
the deceased had no duties requiring him to go to an outside window.
before; and he might have stood on the middle of the guard rail, from which point he could have fallen accidentally into the stack.

CONCLUSION

The basic suicide defense rule, like many other compensation rules over the years, has experienced a complete reversal between majority and minority rules. The majority rule now holds that suicide is compensable if the injury produces mental derangement, and the mental derangement produces suicide. The old *Sponatski* doctrine, that suicide is not compensable unless there has followed as the direct result of a work-connected injury an insanity of such severity as to cause the victim to take his own life through an uncontrollable impulse or in a delirium of frenzy, without conscious volition to produce death, has been relegated to distinctly minority status.

Moreover, in view of the strength of the trend and in view of the fact that the old rule had its origin in demonstrably irrelevant tort and criminal law concepts it may be confidently predicted that the surviving remnants of *Sponatski* will disappear as opportunities are presented to appellate courts to bring their doctrine into line with the modern rule.