

# LegalEASE Employee Health; Legal & Financial Stress Summary

By Robert L. Heston, Jr.





## Your Guide to Understanding and Curing Enterprise Financial Health.

HR Leaders are bombarded with new information about the urgency of financial wellness for their employees. But what if one major driver of financial issues for employees is being overlooked or is misunderstood? What if understanding this cause of this financial component of employee wellness may actually cure a substantial portion of your employees' financial issues?

## Recent Awareness of Employee Financial Wellness

In the last 2 years, employee financial wellness has skyrocketed onto the employee health and wellness scene.<sup>1</sup> Many remedies and programs are being examined, analyzed and implemented. For most HR professionals, this is giving recognition to a problem that was always believed to be present among employees, but without the appreciation of how pervasive some of the financial issues being suffered actually were for employees.

While this new publicity and discussion is terrific, we ought to make sure we fully understand every aspect of the employee financial wellness picture – and every major cause. Otherwise, there may be gaps in the implementation of helpful programs. It is important to look at employee financial wellness from a causation standpoint and make a determination of whether all aspects of the problems that affect financial wellness are addressed.

In particular, it is helpful to understand that there may be significant and obvious issues that cause financial illness. Issues such as not enough savings, not enough contributions to retirement funds, not understanding the importance of savings, or not committing to putting aside money for later may be the result and not the cause of financial problems. Without curing or at least addressing the causes, employee wellness cannot be achieved and programs that are implemented may not be able to reach their full impact for employee financial health.

In examining causes, it is also critical for HR to understand that there may be other components of financial wellness. Many of these are more along the lines of “financial illness.” If we do not fully understand components of financial illness, how can we be certain that the remedial programs being discussed and implemented will “cure the financial component of wellness?” Perhaps, it is too much to think of actually curing financial illness – but we believe that with understanding it is very likely we can cure a portion, at least, of this employee health issue. Are these issues obvious? Are they really overlooked at the HR level?



## **Where do we start?**

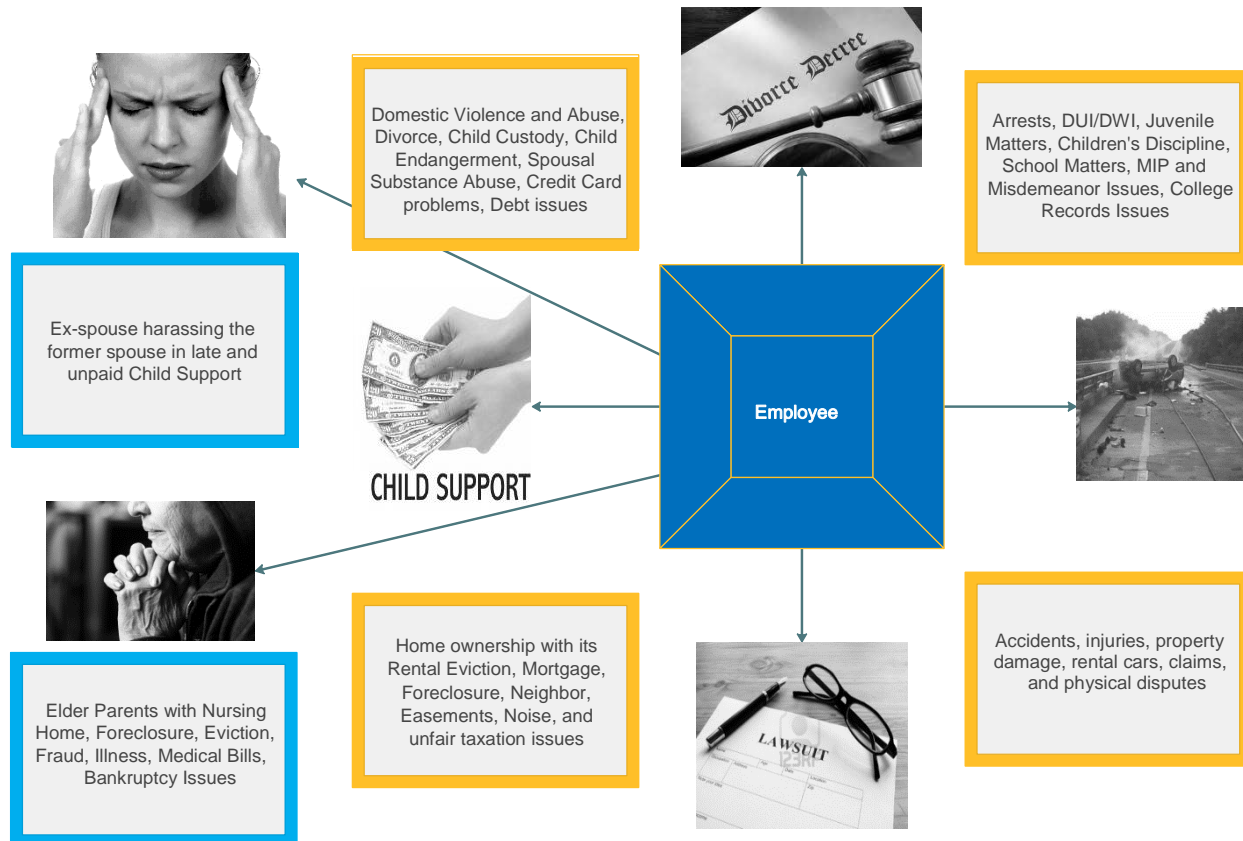
We start by making sure we do understand all the major reasons why employee financial issues arise. Some reasons include: too much debt, too many credit cards, not enough retirement savings, tapping retirement savings for emergencies, no IRA contributions are some of the obvious effects of financial illness. Many are within an employee's control and encouraging less spending and more saving – the current focus of many financial wellness programs – can help employees control their finances.

But, many reasons for financial issues may be outside an employee's control – unexpected medical problems and bills, elder parent health issues, elder parent nursing home issues, teenage disciplinary problems, spouse and ex-spouse actions, and soon-to-be ex-spouse conduct and harassment. Many of these are the actual causes of severe financial illness.

In fact, we could argue there is a complete, albeit unintentional, ignorance of some parts of the financial illness issue. This is not to criticize anyone. But, it is a huge – unspoken – issue – much like an “invisible elephant in the room” when we are talking about employee financial health. We must examine the fundamental manifestations of the problems we know exist for our employees, but we may not “connect the dots” and see that employees are suffering from this “invisible elephant.”

Bottom line – we need to undertake a serious analysis of the financial impact of this “invisible elephant” on employees in the workforce.

## The Overlooked Causes/Drivers – “The Invisible Elephant”:



As HR executives, we want to help our employees. But sometimes we do not understand what they are dealing with in their lives. Once we understand the real nature of their issues, we can begin to look for solutions – programs that we can implement to help them solve these life-crisis issues.

One just completed study has recently examined 20 years' worth of these “invisible elephant”-type employee financial problems to see what the cost of these problems are on employees and on employers.<sup>2</sup> This LegalEASE Study undertook to answer these 6 questions:

1. Is there a major component of the financial wellness equation that is not being addressed?
2. What can this component be called?
3. Can it be measured and if so using what metrics?
4. How big is this problem and how much is it costing employers? Employees?
5. Is there a fix/cure/solution or program that can resolve this problem?
6. Is that program worth the cost to fix the employee problem?

## **1. Is there a major component of the financial wellness equation that is not being addressed?**

Absolutely. Right now in any Company in America, there is a substantial (albeit “invisible”) portion of each Company’s employees who are suffering through one or more subparts to this financial illness. Identifying and analyzing this source of financial problems and curing this illness can pay major benefits for the Company and its workforce.

We begin with the myriad of issues employees face as they begin each new workplace day—personal problems brought unintentionally into the workplace – unavoidably but all-encompassing because of their magnitude. Today, employees face so many challenges from disputes, issues, problems, at home, with their friends and acquaintances, and with others they come into contact with – many of which will manifest themselves in the form of legal problems. We all know employees who have suffered, or are suffering, through divorces, parental illnesses, nursing home issues, injuries and medical problems, spousal abuse, arrests, traffic license suspensions, child custody battles, credit card debts, bankruptcy, foreclosure, eviction, identity theft, and hundreds of other types of legal problems.

How is it that these problems can be so obvious – we see them every day and the news is full of these problems and disputes and lawsuits – yet we seem to ignore their impact on our lives. It is sometimes difficult to believe that there is no program inside a Company to help. Many would argue there is, claiming that many Companies provide an employee EAP program, which often has a basic legal component – initial consultations at no charge, and reduced hourly rates for legal services that do need to be paid for by employees. But, does the EAP solve many of the debilitating problems employees face?

To determine this, we must look at the problem those legal matters cause. The problem with these serious legal problems is how much it costs an employee to find and hire an attorney – and how much stress employees suffer trying to find the right attorneys and the money to hire attorneys. Court and the American Legal System is so daunting to employees and court cases are so expensive and take so long to resolve.

In some ways, mediation has helped a bit. Mediation can be faster and much less costly than a full lawsuit. But what happens when the other party will not agree to mediation? And how about those employees suffering in one-sided relationships, where the other party in the lawsuit has much more time and money than they do?



## **2. What can this component be called?**

What is this large area of financial problems, lawsuits and stressful disputes called? This area of financial illness is the human and financial cost of legal problems – all kinds of problems that arise from clashes, battles and scrapes with the American Legal System. Most are not related to the Company or their employment – but these problems often devastatingly related to their personal affairs. Legal problems are often the “invisible” problem in the workforce – the “invisible elephant”.

### 3. Can this “invisible” problem be measured and if so using what metrics?

Until now, there was no comprehensive study of the effect of legal problems on employees in the workforce – those problems that are personal to the employee and brought by the employee – usually unintentionally – into the workplace by the sheer magnitude of the problem. Because of the personal nature of the employee legal issues – perhaps – this problem has not risen to the level of concern or program-needed status in American Companies. In some respects, they remain “invisible” in the employer dialogue and in the financial wellness dialogue.

Why? We may not know for sure. Certainly the private and confidential nature of legal problems, and their potentially embarrassing nature, may be one of the biggest reasons. Few employees are excited to report to their employers an arrest for a DUI/DWI or for domestic violence, child abuse, or that they are filing for bankruptcy or their house was foreclosed upon, or they are receiving collection calls about massive debts and many other legal issues. The confidential and private nature of these problems – and the potentially devastating effect on employment – easily explains this “invisibility.”

Let’s examine the breadth of this problem in our Companies today to see if there are answers that can help employees.


An analysis can start with the impact of stress on employees – stress caused by these problems – and for that we can turn to the recent LegalEASE Study on the Financial Impact of Stress and Legal Problems.<sup>3</sup> This Study produces some startling analysis. Wellness is impacted on several fronts: (1) there is an enormous but measurable stress produced by these legal problems; and (2) there is an equally enormous and debilitating financial wellness component. Taken together, this means a substantial financial illness.



The Study examined seven (7) of the most common legal problems that employees face today. All of these are personal and include: divorce, civil litigation, probating an elder parent’s estate, juvenile/criminal matter, warranty/small claims matter, DUI/DWI, and a traffic ticket. The Study looked at the cost of these and learned that they produced an enormous amount of employee stress and upset. However, measuring this stress can be tricky as there are no exact measurements for the effects of problems like presenteeism.

The Study determined that it would focus only on the effects of problems that can be accurately measured. The Study determined that it would utilize three effective measures of stress, absenteeism, increase in prescription drugs, and an increase in physician/psychologist visits (including psychiatrists visits).<sup>4</sup> Because employees used prescription drugs [like Xanax] in increased amounts during stressful times, and because they visited physicians or psychologists to obtain prescriptions and to treat the stress – these two (2) measures are reliable indicators of the cost of stress.

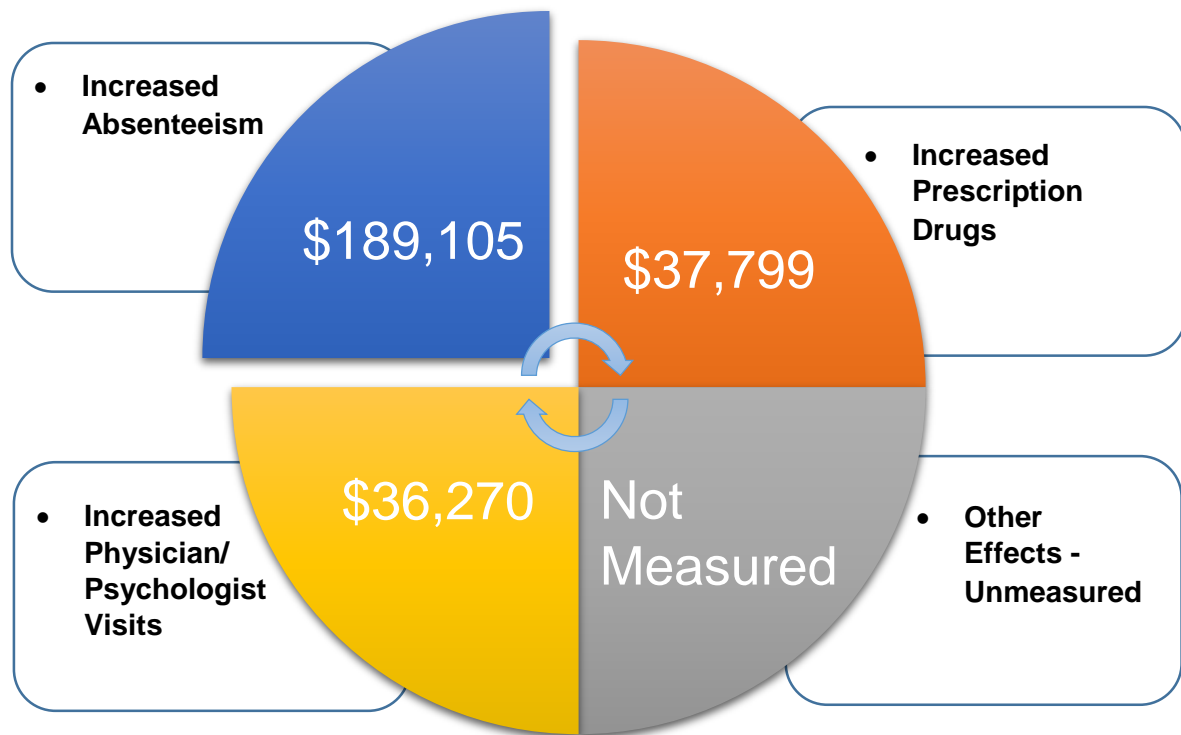




In addition, without help and without money to handle the lawsuit, the stress increased amongst employees. Each day without help or money increased the stress in many cases. Adding to the problem was the fact that to find resources to help with the lawsuit (e.g., attorneys) or to find money to handle the legal fees, employees had to take off of work thereby increasing absenteeism costs. They also had to take time off of work to visit their physician or psychologist for the treatment, thus the absenteeism.

Each of these were also selected because they are measurable, unlike presenteeism or other stress indicators, and taken together they could produce an accurate picture of how much employee stress was being caused by the legal problem and how much this stress costs.

The Costs of these Problems Employees are Suffering:



\*numbers based on 100 employees, per year.

***Substantial Increases in Each Category...***

The costs of financial illness can be massive to both the Company and the Employee:

- Absenteeism
- Prescription Drug Use
- Physician/Psychologist Visits
- Other Effects such as presenteeism

Armed with these three (3) metrics, the Study analyzed the impact of the seven (7) types of legal problems and asked just how much stress is caused for employees.



#### **4. How big is this problem and how much is it costing employers? Employees?**

The twenty year Study concluded this problem was indeed measurable. While Companies understood some employees suffered legal problems- the magnitude of suffering and the number of employees affected was shocking for many companies. The widespread nature of the costs to both employers and employees produced substantial concern among companies that began to examine this problem.

## Employer Costs:

The Study concluded that for the seven (7) common types of legal problems employees frequently drag into the workplace the costs are staggering. Using only the three (3) metrics – increased prescription drug costs, increased physician/psychologist visit costs and absenteeism costs – these seven (7) legal problems cost an American Company in excess of \$263,000 per 100 employees per year!<sup>5</sup>

Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal Matters	ALL 7 Common Legal Matters
Employer Cost due to Missed Time: "Court-Filed" Divorce Legal Proceedings	\$22,974
Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings	\$47,514
Employer Cost due to Missed Time: Initial Attorney Search	\$85,127
Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor	\$33,491
Summary Employer Cost due to Employee Missed Time: All Factors	\$189,105
Cost of Employee Visits to Doctor &/or Mental Health Counselor	\$36,270
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$37,799
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$74,069
<b>Grand Total-All 7 Common Legal Matters</b>	<b>\$263,174</b>

If we drill down further, we can see the staggering costs of some of the legal matters that make up the seven (7) categories of common legal problems:<sup>6</sup>

Divorce:<sup>7</sup>

Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal Matters	<b>DIVORCE</b>
Employer Cost due to Missed Time: "Court-Filed" Divorce Legal Proceedings	\$6,263
Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings	\$12,466
Employer Cost due to Missed Time: Initial Attorney Search	\$24,714
Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor	\$9,723
Summary Employer Cost due to Employee Missed Time: All Factors	\$53,166
Cost of Employee Visits to Doctor &/or Mental Health Counselor	\$10,530
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$10,974
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$21,504
<b>Grand Total</b>	<b>\$74,670</b>

An Elder Parent's Death:<sup>8</sup>

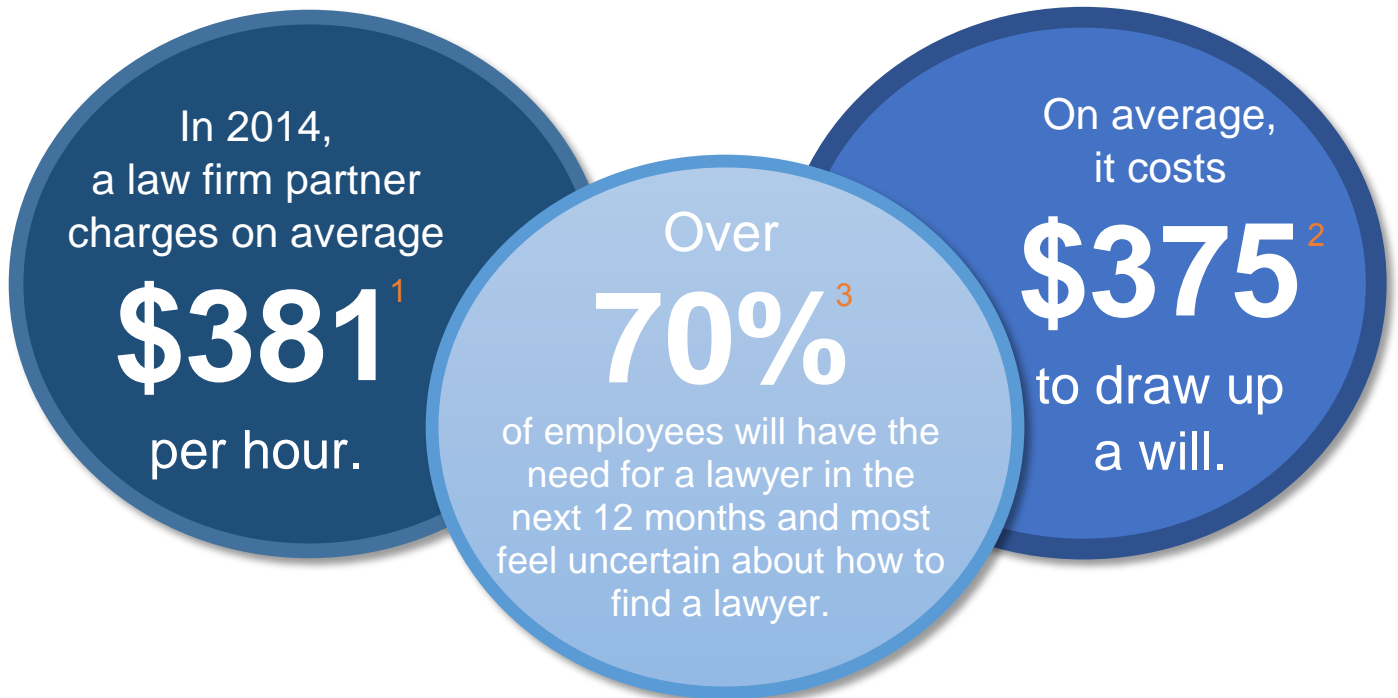
Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal Matters	<b>PROBATE AN ELDER'S ESTATE</b>
Employer Cost due to Missed Time: "Court-Filed" Divorce Legal Proceedings	\$5,600
Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings	\$20,595
Employer Cost due to Missed Time: Initial Attorney Search	\$18,307
Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor	\$7,202
Summary Employer Cost due to Employee Missed Time: All Factors	\$51,705
Cost of Employee Visits to Doctor &/or Mental Health Counselor	\$7,800
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$8,129
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$15,929
<b>Grand Total</b>	<b>\$67,634</b>

A Common Civil Litigation Lawsuit:<sup>9</sup>

Total Cost to Employer due to Employee Missed Time & Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor for Stress Related to Legal Matters	CIVIL LITIGATION DISPUTE
Employer Cost due to Missed Time: "Court-Filed" Divorce Legal Proceedings	\$3,493
Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings	\$6,504
Employer Cost due to Missed Time: Initial Attorney Search	\$10,069
Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor	\$3,961
Summary Employer Cost due to Employee Missed Time: All Factors	\$24,027
Cost of Employee Visits to Doctor &/or Mental Health Counselor	\$4,290
Cost of Employees Using Prescription Drugs for Stress Related Issues	\$4,471
Summary Cost Prescription Drugs & Visits to Doctor &/or Mental Health Counselor	\$8,761
<b>Grand Total</b>	<b>\$32,787</b>

## Employee Costs:

We can also calculate the employee cost of the legal matters by looking at several statistical figures:



<sup>1</sup> Source: LexisNexis, 2014

<sup>2</sup> Source: Legalzoom.com 2014

<sup>3</sup> Source: American Bar Association

Thus, when confronted by one of these legal problems, the employee's immediate concern is the lack of resources – financial resources to pay the legal fees. Money at the outset, as well as throughout the case, becomes a substantial problem. The larger the dispute, the more costly the legal bills are in most cases. And the American Legal System seems to have endless delays, interruptions and wasted time – all paid by the participants. Indeed, how many employees have a large unused, uncommitted amount of money stashed away in the event a legal problem arises? The answer is that most do not.<sup>10</sup> Today, the problem is compounded because employees are not saving enough money that is the entire impetus of the financial wellness movement.

Lawsuit costs average \$18,000 per disputed legal matter in the United States, with many more lawsuits reaching the \$25,000 - \$50,000+ mark.<sup>11</sup> In today's world, an average hourly rate for legal services is found to be \$278/hr.<sup>12</sup> If we look at the number of legal problems per 100 employees in the Study, we can calculate the cost of the lawsuits to employees by using the average total lawsuit figure [\$18,000] per lawsuit.

The Study found there are 19 actual litigation matters per 100 employees that are protracted and require substantial expenditures for attorney fees – assuming each employee will follow advice and retain and attorney in each case.

Number of Lawsuits [per 100 employees]	Average Cost per Lawsuit	Total Cost of Lawsuits for Employees [per 100 employees]
19	\$18,000	\$342,000 / year

Thus, the employee cost in hard attorney's fees costs can be estimated at \$18,000 per lawsuit on average multiplied by 19 or some \$ 342,000 for the 19 employees who will have one of our seven (7) common protracted litigation problems in the course of the year.

The result is legal problems from both the employer and employee angles are not only measurable but huge in costs. This is the "invisible elephant" of financial wellness.



## **5. Is there a fix/cure/solution or program that can resolve this problem?**

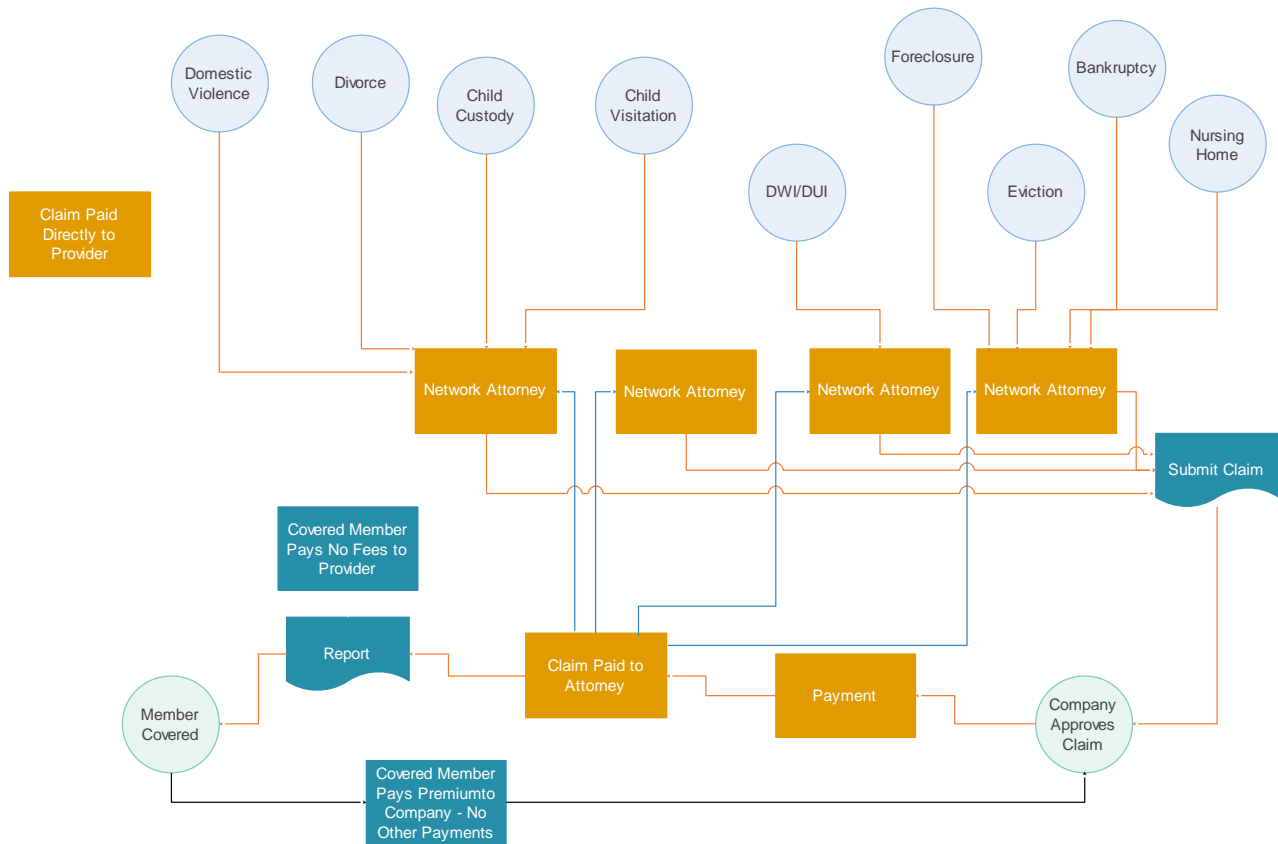
Yes. And the solution is not as complicated as many HR Managers might suspect. Indeed, in many cases it is a solution that is right before the eyes of many HR Managers. Ironically, many HR Managers may already have the solution in place at their Companies, but may not realize the impact or the curative effects of the financial illness being suffered by their employees. Bringing the solution to the forefront may be all that is needed to implement the solution and eliminate all or some of this financial illness.

What is the solution? A legal insurance plan. The emphasis is on insurance. And that is why the EAP legal plan may not be near enough in most cases. Providing attorney referrals, free initial consultations and a discounted hourly rate when hiring an attorney may be very helpful, but cannot help the problem of finding a source of money to pay legal fees. The financial illness is caused more by the lack of money to hire the right attorney than from the source of the legal problem itself. Finding money, as we have seen, creates a maximum amount of stress and the pressure of deadlines exacerbates this stress. "Very few employees have a legal fund stashed away to fund a lawsuit start to finish."<sup>13</sup>

### **Savings for Employees.**

And therein lies the solution. Certain legal Insurance plans not only provide attorney referrals, networks of qualified attorneys, and free initial consultations but the insurance component pays the legal fees, in full or in part, depending upon the legal plan, for the employee in the event a legal problem arises. When one has access to these insurance plans, the plan pays the legal fee for the employee and provides the attorney. Many plans do not require the employee to pay the attorney and seek reimbursement – they actually pay the attorney so the employee never has to find the thousands of dollars to fund the lawsuit, other than a few hundred dollars of court and filing fee costs.

## The Results



### How much can employees save in legal fees?

Because certain of the insured legal plans pay all or part of the legal fees on our most common legal matters, even though this seems shocking – employee costs may be reduced to \$0 of legal fees. Of course if they lose the lawsuit they may have to pay amounts ordered by the court, but that is a different type of insurance.

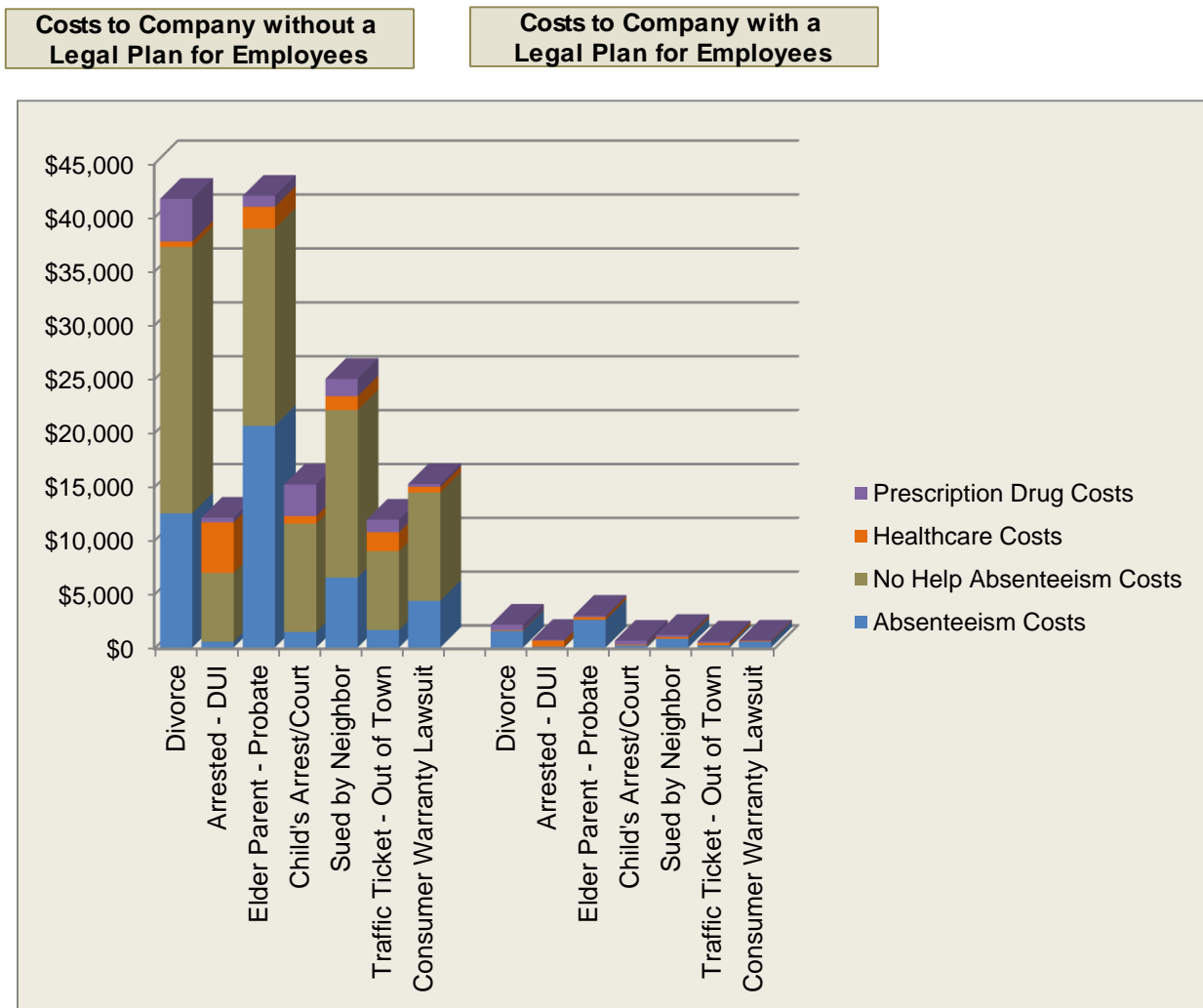
### Savings for Employers.

By paying all of the fees, legal insurance plans can undoubtedly save employees the entire cost of many, if not all, of their personal legal fees. And because these plans save employees from the massive unexpected need to find thousands of dollars they do not have, these legal plans save employers hundreds of thousands of dollars in stress-related costs - according to the Study, some \$263,000.

How much is saved? The savings to employers is massive – the Study carefully analyzed every part of the legal problem that is handled by the insurance legal plan – finding an attorney quicker

means less stress builds, and having coverage in the form of insurance to pay the attorney means that stress from finding money is substantially lessened. We can see from Figure 1, the difference in costs to the employer when a legal insurance plan is and is not in place. Indeed, lessening stress lessens all of the costs of our metrics.

**Figure 1**



And because some plans are better and have more features than other, employers with one of these superior legal plans can save more:<sup>15</sup>

Total Costs with a Superior Legal Plan per 100 Employees per Year *15		With Any Legal Plan										With Superior Legal Plan - Employer Cost due to Missed Time: Initial Attorney Search is no longer a factor!				
	\$128,602	Total Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings *1	Total Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings *2	Total Employer Cost due to Missed Time: Initial Attorney Search *3	Total Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor *4	Cost of Employee Visits to Doctor/Mental Health Counselor *5	Cost of Employees Using Prescription Drugs for Stress Related Issues *6	Total Employer Cost *7	Total Employer Cost due to Missed Time: "Court-Filed" Legal Proceedings *8	Total Employer Cost due to Missed Time: "Non Court-Filed" Legal Proceedings *9	Total Employer Cost due to Missed Time: Initial Attorney Search *10	Total Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor *11	Total Employer Cost due to Missed Time: Visits to Doctor &/or Mental Health Counselor *12	Cost of Employees Using Prescription Drugs for Stress Related Issues *13	Total Employer Cost *14	
		Total \$ Missed Work Hours per 100 Employees	Total \$ Missed Work Hours per 100 Employees	\$ Missed Work Hours per 100 Employees	\$ Missed Work Hours per 100 Employees	\$ Missed Time per 100 Employees	\$ Missed Time per 100 Employees	Total \$ Missed Time per 100 Employees	Total \$ Missed Work Hours per 100 Employees	Total \$ Missed Work Hours per 100 Employees	\$ Missed Work Hours per 100 Employees	\$ Missed Time per 100 Employees	\$ Missed Time per 100 Employees	\$ Missed Time per 100 Employees	Total \$ Missed Time per 100 Employees	
Legal Matter		\$6,264	\$12,466	\$24,714	\$9,723	\$10,530	\$10,974	\$74,670	\$6,264	\$12,466	\$0	\$7,853	\$5,265	\$5,487	\$37,334	
Divorce		\$2,529	\$1,445	\$6,407	\$2,521	\$2,730	\$2,845	\$18,478	\$2,529	\$1,445	\$0	\$2,036	\$1,365	\$1,423	\$8,798	
Criminal Matter		\$5,600	\$20,595	\$18,307	\$7,202	\$7,800	\$8,129	\$67,633	\$5,600	\$20,595	\$0	\$5,817	\$3,900	\$4,064	\$39,977	
Probate an Elder Parent's Estate		\$3,493	\$6,504	\$10,069	\$3,961	\$4,290	\$4,471	\$32,787	\$3,493	\$6,504	\$0	\$3,199	\$2,145	\$2,235	\$17,577	
Civil Litigation (Neighbor) Dispute		\$3,011	\$4,336	\$15,561	\$6,122	\$6,630	\$6,909	\$42,569	\$3,011	\$4,336	\$0	\$4,945	\$3,315	\$3,455	\$19,061	
Consumer Warranty Problem - Small Claims		\$1,325	\$1,626	\$7,323	\$2,881	\$3,120	\$3,252	\$19,526	\$1,325	\$1,626	\$0	\$2,327	\$1,560	\$1,626	\$8,464	
Ticket/License Suspension		\$753	\$542	\$2,746	\$1,080	\$1,170	\$1,219	\$7,510	\$753	\$542	\$0	\$873	\$585	\$610	\$3,362	
DWI/DUI		\$22,975	\$47,514	\$85,127	\$33,490	\$36,270	\$37,799	\$263,174	\$22,974	\$47,514	\$0	\$27,050	\$18,135	\$18,899	\$134,572	

## 6. Is that program worth the cost to fix the employee problem?

Interestingly, most insured legal plans are voluntary and their monthly fees are paid by employees who elect to have the coverage.

Because these problems can be the “invisible elephant” and because the solution is so all encompassing and so curative in many cases, should HR Managers look at these plans with more heightened emphasis? At so many companies, less than 10% of the employees opted for legal insurance coverage, despite the low monthly premium – under \$20 including family coverage. Perhaps calling attention to this problem or considering an employer-paid option or portion of the premium might help employees value this benefit. It will certainly help the Company bottom line.

Either way, this area of financial wellness may be one of the most solvable financial components for HR. By analyzing and adding a fully insured legal plan, HR Managers can achieve measurable and massive savings for their Companies and help their employees handle legal problems without a huge financial burden. While this may not eliminate all of the stress of a legal problem – it can expose and eliminate or virtually eliminate the invisible elephant in the room.

“There is one avenue today where HR Managers can provide almost a complete solution – without costing the company anything – almost sounds too good to be true – But it is exactly a reality in today’s hands-on HR help world.” Legal insurance plans cost the employer virtually nothing, but deliver over \$120,000 per year in savings in missed work, prescription drug costs and physician/psychologist visits.

*\$120,000+ in savings and virtually no cost to the employer...*

*...that is real financial wellness.*



## End Notes

1/ the Business Case for a Healthy Workplace, © IAPA (Industrial Accident Prevention Association) 2008, p. 2.

2/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2016, Robert L. Heston, Jr.

3/ Id.

4/ Id.

5/ Id.

6/ Id.

7/ Id.

8/ Id.

9/ Id.

10/ "Public Perceptions of Lawyers Consumer Research Findings," American Bar Association Study, 2002, p. 5.

11/ "3 Little-Known Truths About Legal Fees and Billable Hours, Correcting Misconceptions About Lawyers Who Bill Their Time," William Tapscott, Yahoo! Contributor Network, June 27, 2010.

12/ Id.

13/ LegalEASE Employee Health; Legal & Financial Stress Impact Study, 2016, Robert L. Heston, Jr.

