



C. Adam Coffey, M.S.
The University of Alabama

David M. Sams, J.D., L.L.M.
The University of Alabama

Stanley L. Brodsky, Ph.D.
The University of Alabama

Background

Objectives:

- 1) Introduce and define the concept of hyperlitigious behavior.
- 2) Draw comparisons between hyperlitigious behavior and factitious disorders.
- 3) Provide tips for identifying this type of behavior and ways of addressing it in legal and therapeutic settings.

Definition of Hyperlitigious:

Construction of the Term:

“Hyper” – Over; Implying Excess or Exaggeration

“Litigious” – Prone to Engage in Lawsuits; Contentious

Hyperlitigious Litigant:

An individual who makes excessive and egregious use of the legal system for primarily non-legal purposes.

Characteristics:

1. Initiates dozens or hundreds of suits
2. Life revolves around development and progress of litigation
3. Is not deterred by repeated negative outcomes
4. Suits are trivial or unfounded
5. Invest great amount of time in litigation
6. Known and persistent presence for lawyers, judges, and clerks
7. Life revolves around development and progress of litigation

Situations That Are Not Hyperlitigious

Litigation-Centered Individual- An individual whose personal or professional life revolves mainly around one lawsuit.

Individuals or companies that, because of their professional obligations, must file or be involved in a high number of lawsuits. Examples include a state attorney’s office or large scale residential landlord.

Exploring the Concept

Factitious Disorder: A Psychological Analog

We hypothesize that these individuals are similar in nature to individuals with factitious disorders, a syndrome in which individuals feign physical or psychological symptoms with the intent to assume the role of a patient.

	Factitious Disorder	Hyperlitigiousness
Etiology	Previous positive experience with medical profession. May hold a grudge against the medical profession based on previous negative experience.	Previous positive experience with legal profession. May hold a grudge against the legal profession.
Behaviors	Study medical textbook and are familiar with and excessively use medical jargon. Go from doctor to doctor, hospital to hospital.	Familiar with legal jargon and can speak intelligently with the attorney Go from attorney to attorney, legal system to legal system.
Treatment	Be careful not to overlook a genuine medical condition. A team based approach is often beneficial, with members of psychiatry, social work, and the legal profession collaborating.	Be careful not to overlook a genuine legal issue. Discuss whether the legal system will be able to provide the assistance the individual is looking for.

Table 1. Comparisons of etiologies, behaviors, and treatment strategies.

Working with a Hyperlitigious Litigant

Working with these individuals can be work intensive and stressful, even for seasoned professionals. Attorneys who are hired by these individuals must spend hours preparing for court and must worry about sanctions for aiding in frivolous litigation. Opposing attorneys must spend time preparing for court as well. This can be a frustrating experience for all parties involved. We offer the following suggestions for those who work with these individuals.

- Seek psychotherapeutic services if the stress of working with these clients becomes too great.
- Consult with colleagues if there is uncertainty about how to proceed with a case, or if there is concern that the lawsuit may be frivolous.
- Recognize that the client’s motivation for engaging in these behaviors may be related to a non-legal end, namely the the individual’s need for personal interaction with the professional and the system. In order to help these individuals express their needs in such a way, the hyperlitigious litigant would be best assisted by a person trained to help assess the root of these issues and not the professional trained to address the claimed legal issue.

Future Directions

Seek direct data

Though there is anecdotal evidence that these individuals exist, base rate data is needed to determine the prevalence of these behaviors in society. This information can be obtained by examining court dockets or speaking to court clerks, lawyers, and judges.

Research is needed to determine the financial burden these individuals are placing on the legal system, as well as the time and effort expended on cases they are involved in.

Explore related issues

Future research may explore the concept of hypoligious individuals, defined as individuals who do not engage in litigation even when they have compelling reasons to do so.

Comparing characteristics of hyper- and hypo- litigiousness may provide information about how these characteristics influence one’s willingness to engage in litigation.

Subtypes

Exploring the existence of subtypes of hyperlitigious behavior may facilitate a more accurate understanding of the unique motivations different individuals have for engaging in these behaviors. At present, we believe there are three distinct subtypes of hyperlitigious behavior: 1) instrumental, 2) vengeful, and 3) malicious.

REFERENCES:

- American Psychiatric Association. (2013). *Diagnostic and statistical manual of mental disorders* (5th ed.). Washington, DC: Author.
- Kilgus, M, Ward, N., & Maxmen, J. (2009). *Essential psychopathology and its treatment* (3rd ed.) New York: W.W. Norton and Co.