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MANAGEMENT | RESEARCH ARTICLE

Workplace bullying in the United States: An analysis of state court cases

Rickey E. Richardson^{1*}, Reggie Hall² and Sue Joiner²

Abstract: Workplace bullying detrimentally impacts the bullied worker, co-workers, and potentially the entirety of the organization in which it takes place. Many nations, other than the United States, have long since recognized this impact and have implemented laws which provide injured parties a means to seek redress of their situations. Since there are no specific independent causes of action to address bullying in the workplace at either the Federal or State level, affected employees in the US face significant legal hurdles when seeking remedies to their situations. However, as evidenced by recent laws enacted by legislatures in Utah, Tennessee, and California and an employment policy enacted by a county in Georgia, a changing tide may be occurring. Court cases referencing workplace bullying have been analyzed in prior research, but there appears to be a gap in the analysis of United States' State court cases consisting of those reported between January 2009 and 31 December 2015. Content analysis was utilized in order to bring research up to date. Injured parties and their legal representatives, as well as employers who are interested in potentially minimizing claims, creating better workplaces, and improving productivity may benefit from the findings of this study.

Subjects: Business & Company Law; Human Resource Management; Employment Relations; Human Resource Development

Keywords: workplace bullying; business law; management; improving workplaces; organizational effectiveness

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Research interests of the authors include management, business law, business ethics, human resources, training, employee development, and organizational effectiveness.

From a broad perspective, the research reported in this paper relates to employee health and well-being, working conditions, detriments to organizational effectiveness, minimizing workplace claims, improving productivity, and creating better workplaces.

PUBLIC INTEREST STATEMENT

Bullying is an unacceptable behavior. Many think it's limited to the schoolyard or perhaps social media, but it's not. Workplace bullying is real and detrimental to the bullied employee, their co-workers, and the organizations in which it occurs. Potential consequences include direct costs of litigation, medical claims, decline in morale and employee engagement, fear, anxiety, absenteeism, and more. Many nations, other than the United States, have long ago recognized the seriousness of this behavior and have provided injured parties legal avenues to address their situations. Although no independent legal cause of action to address bullying in the workplace at either the Federal or State level in the US currently exists, the issue is slowly being recognized. This research may help injured parties in their pursuit of a remedy, as well as organizations interested in potentially minimizing legal claims, creating highly engaging and satisfying workplaces, and improving productivity.

1. Introduction

Workplace bullying has been compared to cancer in that exposure to pervasive and severe bullying may have detrimental repercussions on both the professional and personal lives of affected employees, as well as threaten the existence of the entire organization in which it occurs (Harvey, Heames, Richey, & Leonard, 2006; Tuckey, 2015). As observed by Yamada (2013), such bullying behavior typically starts at a young age and if allowed to manifest itself in the workplace results in “harms that raise significant human rights and public health concerns” (p. 329).

The topic has gained national attention “of American employee relations stakeholders and the public generally” (Yamada, 2013, p. 329). For example, “in 2011, over two dozen US cities, towns and counties issued proclamations endorsing Freedom from Workplace Bullies Week, an event created by the Workplace Bullying Institute” (Yamada, 2013, p. 346). By 2015, the number of cities and counties in the State of California alone which endorsed the Freedom from Workplace Bullies Week numbered 116 (Workplace Bullying Institute, 2015b).

Historically, however, in the United States, many organizations have been reluctant and/or ill-prepared to deal effectively with the issue (Hall & Lewis, 2014; Yamada, 2008). As a consequence, aggrieved parties must resort to the court system to resolve their dilemmas and seek compensation for their injuries. Litigation however is stressful, time-consuming, and expensive. To help alleviate at least some of these negatives, analysis of court cases in which workplace bullying is referenced may provide assistance to those who have been injured and their legal representatives, as well as employers who are interested in potentially minimizing claims, creating better workplaces, and improving productivity. Cases referencing workplace bullying have been analyzed in prior research, but there appears to be a gap in the analysis of United States’ State court cases consisting of those decided between January 2009 and 31 December 2015 (Martin & LaVan, 2010; Martin, Lopez, & LaVan, 2009; Richardson, Joiner, & Hall, 2016; Yamada, 2013). In order to provide insights to injured parties and employers, bring research up to date, and to determine the geographic scope, employer type, causes of action upon which claims were based, and parties which prevailed, this research was undertaken.

2. Literature review

Understanding what “workplace bullying” denotes helps establish a basis for recognizing the behavior involved. According to the Workplace Bullying Institute (2015a), it:

is repeated, health-harming mistreatment of one or more persons (the targets) by one or more perpetrators. It is abusive conduct that is threatening, humiliating, or intimidating, or work interference—sabotage—which prevents work from getting done, or verbal abuse.

Numerous authors have also offered explanations of bullying in the workplace. Their explanations typically describe such actions as being unwanted, uninvited, repeated, offensive, and deliberate which result in harm to the health and/or financial well-being of the person targeted by the behaviors (Einarsen, 1999; Namie, 2003). It has also been referred to as a “pattern of destructive and generally deliberate demeaning of co-workers or subordinates that reminds us of the activities of the schoolyard bully” (Vega & Comer, 2005, p. 101). And “like sexual harassment ... it is unwanted and uninvited” (Namie, 2014a, p. 14).

Legislatures in the States of Utah, Tennessee, and California, as well as the Board of Commissioners in Fulton County, Georgia, have chosen to use the related term “abusive conduct” in place of “workplace bullying” in their initial attempts to address the issue. In 2015, the State of Utah enacted “H.B. 216 Workplace Abusive Conduct Amendments to Promote a Healthy Workplace” which includes the following definition:

“Abusive conduct” means verbal, nonverbal, or physical conduct of an employee to another employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine: is intended to cause intimidation, humiliation, or unwarranted distress; results in substantial physical or psychological harm as a result of intimidation, humiliation, or unwarranted distress; or exploits an employee’s known physical or psychological disability. (State of Utah, 2015)

Similarly, in 2014, the State of Tennessee enacted its “Healthy Workplace Act” which defined “abusive conduct” as:

acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, which can include but is not limited to: repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets; verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or the sabotage or undermining of an employee’s work performance in the workplace. (Tennessee Advisory Commission on Intergovernmental Relations, 2015, p. 1)

Likewise, in 2014, the State of California amended its Government Code to define the term of “abusive conduct” as:

conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person’s work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious. (State of California, 2014)

And the employment policy adopted in Georgia utilizes a similar definition of the term “abusive conduct” to those found above (Fulton County, Georgia, 2012).

2.1. Impact of workplace bullying

Namie (2014b) found “the number of US workers who are affected by bullying—summing over those with direct bullying and witnessing experiences—is 65.6 million, the combined population of 15 States” (p. 5). In a study conducted by Lewis, Hall, and Richardson (2015), more than 80% of the undergraduate college students participating reported personally experiencing or witnessing workplace bullying, while 67% of these undergraduates indicated adverse employment action was not administered to the perpetrator(s) by the employer (Lewis et al., 2015). These findings are consistent with a study by Namie (2014b) which found, in part, that at least 7 out of 10 American adults are familiar or aware of workplace bullying existing in the workplace.

In the 2014 US Workplace Bullying Survey, participants were asked, “what do you know to be the most common American employer reaction to complaints of abusive conduct (when it is not illegal discrimination)?” (Workplace Bullying Institute, 2014). The survey respondents were consistent in their belief that employers often fail to appropriately resolve abusive conduct much more frequently than taking positive measures to stop bullying. Affirming these responses, Namie (2014a) observed the most common reactions by employers to complaints of abusive conduct were minimizing the issue or refuting the claims.

In addition to being bullied, targets are significantly more likely to lose their job than the bully, 82 vs. 18%. The impact of such behaviors can be catastrophic to the victimized employee, their co-workers, organizational culture, and the entire organization. Potential consequences include direct costs of litigation, workers compensation claims, medical insurance claims, decline in employee and organizational morale, declining employee engagement, disruptions in work teams, fear and anxiety throughout the organization, and absenteeism (Namie, 2014a; Yamada, 2008). For example, Chekwa

and Thomas (2013) indicated close to 40% of employees utilize a personal day or sick day due to a stressful relationship at work. Likewise, it has also been estimated that overall, US organizations sustain \$5 billion in health care expenses attributed to psychological stress of issues related to the workplace (Lim & Teo, 2009).

2.2. Legal recourse

Yamada (2010) stated “despite the growing recognition of the harm caused by severe workplace bullying, many targets of this behavior have little recourse under law. Overall, workplace bullying remains the most neglected form of serious worker mistreatment in American employment law” (p. 253). Yamada (2010) further explained “the concept of workplace bullying did not originate in America. Perhaps this is one reason why our legal system has lagged behind those of many other nations in providing more comprehensive responses to bullying at work” (p. 278). Davidson and Harrington (2012) indicated in the United States, “there are no laws specifically designed to provide protection to victims of bullying in the workplace” (p. 94), while Olive and Cangemi (2015) expressed, due to the lack of legislative laws against workplace bullying, victims of workplace bullying must rely on tort law or discriminatory suits if they choose to pursue legal recourse.

This is not to say there have been no attempts to legislate a legal cause of action in the United States which would allow injured parties to sue specifically for workplace bullying. The most concerted effort to provide such a remedy is the Healthy Workplace Bill (HWB). Since its introduction in 2001, the HWB has been considered by 31 State legislatures and two Territories of the United States, but has failed to be passed by any State or Territory (Workplace Bullying Institute, *in press-a*). Table 1 provides an overview of the HWB.

There has been some legislative recognition of the issue in Utah, Tennessee, and California; however, their laws which address “abusive conduct” do not create independent causes of action upon which an injured party can base a claim (neither does an employment policy adopted in Fulton County, Georgia). According to the State of Tennessee Office of the Attorney General (2015), the State’s Healthy Workplace Act is limited to providing supplemental immunity to “any agency, county, metropolitan government, municipality, or other political subdivision of the state” which adopts the State-approved model policy against “abusive conduct.” Additionally, the Tennessee Attorney General stated that “no provision of the Healthy Workplace Act expressly creates or confers (or even indirectly refers to) a new private cause of action for abusive conduct” (State of Tennessee Office of the Attorney General, 2015). While California’s amendment to its Government Code to incorporate the term “abusive conduct” mandates employers of 50 or more people to incorporate abusive conduct training into their already required sexual harassment training, it “does not create a private right of action for abusive conduct unless such behavior is based on a protected category” (Plaskin, 2016).

Table 1. Healthy workplace bill

HWB for employers	HWB for workers	HWB—does not do
Defines abusive work environment	Avenue for legal redress concerning health harm	Involve State agencies to enforce provisions of the law
Requires proof of health harm	Allow to sue the workplace bully as individual	Incur costs for states adopting bill
Protects employers from liability risk	Holds employer accountable	Require plaintiffs to be members of protected status group
Requires plaintiffs to use private attorneys	Seeks restoration of wages and benefits lost	Use the term “workplace bullying”
Plugs gap in State and Federal civil rights protections	Requires employers to prevent and correct future instances	
Gives employers reason to terminate or sanction offenders		

Note: Revised from Workplace Bullying Institute (*in press-b*).

Due to the lack of specific legislation creating an independent cause of action against workplace bullying, affected US employees must utilize recognized legal theories such as unlawful harassment and discrimination while employing evidence of workplace bullying as a contributing factor (Lewis et al., 2015; Lopez, Lavan, & Martin, 2010–2011; Sanders, Pattison, & Bible, 2012). Such recognized theories are found in both Federal and State laws, which require the injured party to make a decision as to whether to pursue litigation through the Federal court system or the court system within their State.

2.3. Court system

The judicial function in the United States takes place within the Federal court system, as well as through the court systems administered by each State. Glick (1971) observed,

It is important to recognize that while decisions of the United States Supreme Court receive the most publicity and that Court seems to be the most important judicial institution in the United States, state and local courts deal with those cases, problems and issues that most often affect basic aspects of daily life in the United States. Federal courts also deal with some of these issues, but in terms of quantity of cases and the different types of litigation, state and local courts are much more significant parts of the American judicial system. (p. 346)

As explained by the Administrative Office of the US Courts on behalf of the Federal Judiciary:

The US Constitution is the supreme law of the land in the United States. It creates a federal system of government in which power is shared between the federal government and the state governments. Due to federalism, both the federal government and each of the state governments have their own court systems. (Administrative Office of the U.S. Courts on behalf of the Federal Judiciary, 2016)

The laws of each State, in addition to the US Constitution, establish the State courts. The highest court in most states is typically referred to as a Supreme Court. A Court of Appeals is found in some states and serves as an intermediary venue to hear appeals from State trial courts. The trial courts are most often referred to as District or Circuit courts. Certain courts may also be designated to hear specific types of cases such as those involving juveniles, decedent's estates, and family matters. If a litigant doesn't agree with the decision of the trial court, then they may decide to appeal to the Court of Appeals. If a party is dissatisfied by the Court of Appeals ruling, they may appeal to the highest court in State. Once decided by the highest State court, only certain cases may be appealed to the US Supreme Court.

Generally speaking, the appropriate court system in which to pursue a legal claim is dictated by which laws (i.e. Federal vs. State) the injured party relies upon to seek redress. Cases referencing "workplace bullying" have been reported in both Federal and State courts. Prior research has focused on cases reported from Federal Courts (Richardson et al., 2016). In an effort to discover the current status of litigation in the State courts of the United States in which "workplace bullying" is alleged as a contributing factor, this research focuses on cases reported from State courts.

3. Methodology

A search for State court cases referencing "workplace bullying" and decided between January 2009 and 31 December 2015 was performed using WestlawNext. WestlawNext is a recognized comprehensive database which includes court decisions from both the Federal and State court systems, as well as legislation, regulations, and related documents. The search yield was 18 applicable cases. To provide comparability to prior research, each of the cases identified was analyzed to determine State of origination, type of employer involved, prevailing party, and causes of action relied upon.

A manual version of qualitative content analysis was employed to review all of the identified cases. Content analysis reduces “a volume of qualitative material and attempts to identify core consistencies and meanings” (Patton, 2002, p. 453). It involves the “subjective interpretation of the content of text data through the systematic process of coding and identifying themes or patterns” (Hsiu-Fang & Shannon, 2005, p. 1278).

Content analysis findings may have reliability issues when only one coder is used (Morris, 1994). However, using multiple coders may also result in “sacrifices to research design and rigor” (Morris, 1994, p. 907). Morris (1994) also observed “the validity of the content analysis results rests in part of the qualifications and expertise of the coders” (p. 907). To help alleviate potential reliability and validity issues, one of the researchers with an earned law degree and practice experience served as the data coder and the coder utilized periodic sampling of reviewed cases to ensure consistency in findings.

4. Results

To help determine how widespread the issue of “workplace bullying” may be in the United States, as reflected by cases filed in State courts, the State of origination was determined for each case under study. The cases originated in 11 different States. Table 2 shows case location by State and the number of cases originating in each State.

Types of employers involved were identified to determine if the reported cases were industry or entity specific. It was found that employers included businesses, State and county entities, and a school district. Table 3 reflects the type of employer and the number of cases in which each type was identified.

Whether the alleged injured party or alleged responsible party prevailed was also determined. If the case was still ongoing, it was identified as such. Table 4 reveals the parties which prevailed, as well as the number of cases which had yet to reach resolution.

Analysis of the causes of action cited in the cases revealed retaliation as being the most frequently relied upon. Breach of contract was the next most frequently included, while breach of implied covenant of good faith and fair dealing, common law negligent supervision and retention, discrimination based on age, disparate treatment, gender discrimination, hostile work environment, intentional infliction of emotional distress, sexual harassment, and wrongful discharge each appeared in more than one case. References to State-specific laws included, but were not limited to: Texas Commission on Human Rights Act, Connecticut General Statutes, Delaware Whistleblowers Protection Act, Washington Law Against Discrimination under the Revised Code of Washington, Michigan’s Persons with Disabilities Civil Rights Act, Michigan’s Civil Rights Act, and South Dakota’s Human Relations Act. Table 5 reflects the number of cases citing each cause of action in broad categories.

The number of State court cases found during the seven-year time period under study was relatively small at 18. Such a finding may indicate there is not a high frequency of cases referencing “workplace bullying” being filed in State courts. Conceivably though, it could also indicate there was a low incidence of workplace bullying taking place during the period or injured parties chose not to pursue their claims or injured parties decided to pursue their claims through the Federal court system. For comparison, Richardson, et al. (2016) found 93 Federal court cases referencing “workplace bullying” reported between January 2009 and October 2014.

The States of origination for the cases reflected a geographic range from Delaware to Arizona to Washington and States in between (Table 2). Accordingly, there does not appear to be a high concentration of cases in any particular geographic area. Businesses were found to be the most frequently alleged responsible party. State, county, and school district employers were also alleged to be responsible, but with less frequency (Table 3). The alleged responsible party was by far the most frequent prevailing party, which may indicate the cases brought had weak fact patterns or perhaps it is just

Table 2. Where did the cases originate?

Location	Number of cases
Arizona	1
Connecticut	2
Delaware	1
Louisiana	1
Michigan	1
Minnesota	1
Ohio	2
Pennsylvania	4
South Dakota	1
Texas	2
Washington State	2

Table 3. What type of employer was involved?

Type	Number of cases
Business	13
State	3
County	1
School district	1

Table 4. Which party prevailed?

Prevailing party	Number of cases
Alleged responsible party	14
Still ongoing (at least to some claims)	3
Alleged injured party	1

very difficult for an alleged injured party to prevail (Table 4). Retaliation was the most frequent cause of action cited which indicates alleged injured parties felt they had been subjected to some form of punishment by their employer in addition to the workplace bullying. Although with less frequency, a broad range of other causes of action were relied upon including breach of contract, discrimination, harassment, hostile work environment, wrongful discharge, and a number of others (Table 5). Interestingly, analysis not limited to just State court cases conducted by other researchers has found similarly cited causes of action including, in part: retaliation, discrimination, hostile work environment, harassment, and wrongful discharge (Martin et al., 2009; Martin & LaVan, 2010; Yamada, 2013).

The following excerpts from a sampling of the cases studied shed some light on the rationale of the Courts hearing the cases under study:

- *Darden, et al. v. Fambrough* (2013)—“The courts are not arbiters of civility in the workplace.”
- *Fernandes v. Manning et. al.* (2011)—“Washington law does not guarantee a stress-free workplace.”
- *Kearney v. The Orthopaedic and Fracture Clinic* (2015)—The district court determined that workplace bullying “is not a new or novel concept” and it is “not beyond the understanding of a trier of fact.” ... On appeal, appellant argues that workplace bullying is similar to battered woman syndrome, rape victim behavior, and post-traumatic stress disorder (PTSD). ... Rape and battered

Table 5. What were the causes of action relied upon?

Cause of cases	Number of action
Retaliation	7
Breach of contract	3
Breach of implied covenant of good faith and fair dealing	2
Common law negligent supervision and retention	2
Discrimination based on age	2
Disparate treatment	2
Gender discrimination	2
Hostile work environment	2
Intentional infliction of emotional distress	3
Sexual harassment	2
Wrongful discharge	2
Blacklisting	1
Constructive discharge	1
Defamation	1
Dissimilar treatment based on race	1
Failure to accommodate	1
Failure to pay wages due	1
Implied covenant of good faith and fair dealing	1
Menacing by stalking	1
Negligence	1
Negligent supervision and retention	1
Race discrimination	1
Unfairly prejudicial conduct	1
Wrongful discharge in violation of public policy	1

woman syndrome involve significantly traumatic experiences not generally experienced or understood by “an ordinary lay person.” Those types of cases frequently involve counterintuitive behaviors in response to traumatic experiences. ... Bullying, on the other hand, is regrettably more commonplace. ... bullying is “quite prevalent today and it is not beyond a trier of fact’s ability to understand the sometimes extreme and physical manifestations that bullying can cause in an individual.” We see no clear abuse of the district court’s discretion in excluding Dr Namie’s proposed testimony.

- *Stanley Black & Decker, Inc. v. Krug* (2015)—Here, the defendant alleges that the plaintiff created a hostile work environment by permitting the defendant’s supervisor to engage in defamatory conduct, harassment, bullying, and other behavior that caused the defendant to suffer emotional distress and eventually quit her job. The court cannot say as a matter of law that this conduct was not sufficiently outrageous to State a cause of action for intentional infliction of emotional distress.
- *Gonzalez v. Lecoq Cuisine Corp. et al.* (2015)—The plaintiff specifically alleges: “Throughout the period of plaintiff’s employment, Lecoq engaged in a practice of intimidating, bullying and humiliating plaintiff in her daily work for the Company ... On or about 22 June 2012, Lecoq, in discussing a problem male customer and how plaintiff could increase sales to him, suggested that plaintiff might progress with the account if she would have sex with the customer’s representative. Lecoq made this suggestion at least four separate times that day ... Lecoq’s continued and intentional harassment created an intolerable working environment which prevented plaintiff from continuing to work at the company and resulted in her constructive discharge. ... While she

has alleged offensive language which is unacceptable in today's workplace environment, her injury is emotional, not physical. As offensive as Lecoq's statements were, they did not either cause her to suffer physical injury or place her at risk of physical injury. The court agrees with the assertion by plaintiff's counsel during oral argument that Lecoq's statements to the plaintiff constituted a form of "workplace bullying." However, such conduct does not meet the statutory requirement for maintaining a claim under the provisions of C.G.S. 31-49. ... While emotional distress is an actionable injury under many statutes and common law causes of action, this court does not recognize it as a cause of disease or physical harm under § 31-49.

Perhaps some of the lessons learned from the preceding case excerpts, include: (1) there's no expectation of civility in the American workplace, nor is there a requirement that it be stress-free, (2) bullying in the workplace is commonplace and the concept can be understood by judges and jurors, and (3) employers may be held responsible if they allow a supervisor's conduct to be so egregious that it creates a hostile work environment. However, it must be kept in mind that even if there is conduct in the workplace that is clearly bullying, such conduct is not in and of itself actionable. This means there must be some other established cause of action the injured party must rely on and prove in order to prevail.

5. Conclusion

Organizations which permit workplace bullying to occur are likely to experience increased operating costs associated with litigation costs, workers compensation claims, medical insurance claims, productivity declines, and absenteeism (Yamada, 2008). Additionally, declines in morale, employee engagement, disruptions in work teams, and a culture of fear and anxiety may permeate the organization (Yamada, 2008). Weak organizational leadership and passive organizational cultures may allow bullying to flourish and view the destructive and "tough" behaviors as company norms (Salin, 2003).

Overall, at least for cases reported between January 2009 and 31 December 2015, State court does not appear to be the preferred venue for filing cases citing "workplace bullying" as a contributing factor. Federal court filings of similar cases over a comparable period of time were significantly greater (Richardson et al., 2016). This finding may influence injured parties and their legal representatives to consider utilizing the Federal court system if their claim includes a violation of Federal law. In addition to venue selection considerations, injured parties and their legal representatives should recognize that given the low number of cases in which alleged injured parties prevailed, securing a verdict on their behalf is very challenging. Accordingly, pleadings must be carefully constructed to ensure a viable existing cause of action is included and that evidence of workplace bullying is just one of the contributing factors establishing their claim. Counsel should also be aware that at trial, just as in the case of *Kearney v. The Orthopaedic and Fracture Clinic* (2015), the trier of fact may deny the admission of expert testimony about workplace bullying. Each of these findings should assist injured parties in their pursuit of a remedy.

Geography does not seem to play a role in State court litigation involving allegations of workplace bullying. Even though the number of reported cases in State courts was only 18, they were widely dispersed. While type of employer involved in the cases at hand was skewed toward businesses, perhaps this is just a reflection of the much greater number of business employers than non-profit, governmental, or non-governmental employers. As such, employer type does not appear to be a limiting factor for pursuing claims in which "workplace bullying" is alleged to play a role. Also, employers of every type should be aware that incidents of "workplace bullying" could be occurring or may occur in the future within their organizations.

Retaliation appeared as the most frequently listed cause of action in the cases studied and it is also listed as a frequent cause of action in cases analyzed in prior research (Richardson et al., 2016). This may indicate a tendency toward employers taking retaliatory action toward employees who complain of being bullied in the workplace. Employers who are interested in potentially minimizing claims of "workplace bullying," creating better workplaces, and improving productivity should first

recognize the serious nature of the issue and its consequences. Next, such employers should consider implementing anti-bullying provisions within their codes of conduct, specifically prohibit retaliation, and strictly enforce their anti-bullying provisions. The combination of avoiding retaliatory actions, recognizing the negative consequences of bullying on their employees and their organizations, prohibiting such conduct, and taking decisive action against those who are bullies in the workplace should contribute to an employer saving costs and creating more engaging and satisfying workplaces.

Future research appears warranted in which cases referencing workplace bullying and filed in State courts are compared or at least distinguished from similar cases filed in Federal courts. Also, in light of the States of Utah, Tennessee, and California using the term “abusive conduct” in their arguably anti-workplace bullying legislation, as well as in the employment policy of Fulton County, Georgia, the term “abusive conduct” should be considered in future case searches and analysis. Such research may help detect changes in how courts view workplace bullying and may also be beneficial to alleged injured parties, their legal counsel, and employers who desire to eliminate or prevent bullying in their workplaces.

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