

MEDIA RELEASE

False bullying claims on the rise as employees try to protect themselves amid job insecurity

Current downturn contributes to highest ever levels of bullying claims as employees' survival choices turn to false claims

17 March 2009 – The current climate of job uncertainty has contributed to a trend that may come as a surprise to employers – an increase in the number of bullying claims and in particular false claims, as employees try to protect themselves from redundancies through contrived or exaggerated workplace allegations, according to Harmers Workplace Lawyers.

Joydeep Hor, Managing Partner of Harmers Workplace Lawyers said, “I’ve seen a significant increase in false bullying claims in recent months, with bullying and harassment claims arguably at their highest level ever.

“When employees feel that their employment is threatened, many feel cornered and helpless and some even decide to take matters into their own hands to protect themselves. Given the often high profile nature of bullying and harassment cases and the negative impact on a company’s reputation, employees can see the bargaining power a claim like this might bring and they hope the claim will mark them ‘off-limits’ for any future redundancies.

“Previous downturns would not have seen anywhere near the same number of claims of bullying and harassment as reporting of workplace bullying has steadily increased over the past ten years as employees are better educated about these issues and have better avenues to report cases. However, coupled with the current economic downturn and feelings of job insecurity, the claims have now reached new heights as employees seek to bolster and protect their position in the organisation,” he said.

Mr Hor said also that many of the false claims can be subtly made by employees wishing to shift focus or scrutiny to other staff or managers. He said, “Rather than making outright allegations of bullying, employees may simply alert a manager or employer to an incident or conduct which could be construed as bullying. That then puts the onus on their superior to escalate the issue, leaving the employee feeling less implicated.”

He said that employers should be careful to ensure their employees are not put under excessive pressure to improve or perform to unrealistic standards (given the current business environment) as some employees can take that demand personally and feel threatened and harassed. He said, “The law is clear that legitimate performance management cannot be seen as bullying. However, it can be a fine line between what is seen as an appropriate expectation of improved performance and what is considered an impossible task. As a result, a threat to the employee’s future can be taken as a personal attack by the employee. These situations are open to be easily misconstrued or form the basis of an exaggerated bullying claim.”

Mr Hor said that while employers should be wary of false claims, they must ensure the appropriate steps are taken to deal with each bullying claim properly as they cannot presume to know when a claim is false or otherwise.

“Though false claims might be increasing, real cases of bullying continue to occur and must be dealt with properly. This is necessary not only for the protection of employees, but also to demonstrate appropriate levels of compliance and avoid the risk of litigation.”

Employers should:

- Develop a policy that prohibits workplace harassment and bullying (if they don't already have a suitable policy in place)
- Train all staff regarding compliance with the policy
- Remind managers and supervisors of their obligations under OH&S laws in the context of staff treatment
- Be vigilant of employee behaviour
- Investigate any allegation of bullying properly, even if it is suspected that the claim is false

Ends

Note to editors:

About Harmers Workplace Lawyers

Harmers Workplace Lawyers was established in 1996 as a boutique employment law firm. Since then it has become one of Australia's leading employment and industrial law firms, with offices in Sydney, Melbourne and Brisbane. The firm has been awarded Australasian Legal Business's 'employment specialist firm of the year' for the past three years running.

Issued by Sefiani Communications Group on behalf of Harmers Workplace Lawyers

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