



## After The Violence Come The Lawsuits

### Insights

5.01.13

A lawsuit filed against a business in Minneapolis, Minnesota demonstrates that the problems associated with workplace violence do not necessarily end once the violence stops. Recently, the family of one of six individuals slain at the interior signage company filed a wrongful death lawsuit against the company, alleging that it was “grossly negligent” in handling the termination of an employee.

On September 27, 2012, the employee killed six coworkers following a meeting in which managers terminated him for his chronic tardiness and poor performance. The employee also took his own life.

The employee, who had received a written reprimand for his performance issues one week earlier, apparently pulled out a concealed handgun and began shooting immediately after his managers handed him his final paycheck. In the aftermath of the shooting, reports indicated that the employee suffered from a mental illness but had refused offers of treatment.

The lawsuit alleges that the company knew about the employee’s mental instability and should have known from his pattern of behavior that a violent outburst was possible. In light of that knowledge, the company acted with gross negligence when it gave the employee advance notice of his termination, allowed him to go to his vehicle prior to his termination meeting (where he retrieved his weapon), and failed to have adequate security on hand for the meeting, according to the lawsuit.

The family of the slain individual claims that the company should have had extra security on hand for the termination and should have monitored the employee’s movements before the meeting.

### A Nationwide Problem

Incidents such as the Minneapolis shooting deaths are an employer’s worst nightmare, and recent data suggests that workplace violence occurs more frequently than might be expected. A 2012 survey from AlliedBarton Security Services entitled the “Violence in the American Workplace” revealed that 52% of Americans who work outside their home “have witnessed, heard about, or have experienced a violent event or an event that can lead to violence at their workplace.”

The survey specifically linked the likelihood of workplace violence to low employee morale. Most seriously, there were 506 workplace homicides in 2010, the most recent year in which such statistics have been published by the U.S. Bureau of Labor Statistics on the issue.

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As the tragedy in Minneapolis demonstrates, the problems associated with workplace violence can continue after the violence ends, in the form of expensive litigation that brings negative publicity. Now, after dealing with the trauma of slain employees, including the company's founder, the company must litigate whether it bore responsibility for the tragic events of last September.

While litigation following such episodes may be unavoidable, the risks of such litigation increase when an employer arguably has reason to know that an employee may be unstable and prone to violent outbursts.

### **What To Look For**

There will not always be obvious warning signs before an incident of workplace violence occurs. As a result, do not wait until an employee makes a direct threat before addressing the issue. Instead, look for more subtle red flags from potentially troubled employees. For example, take note of employees who exhibit dramatic changes of attitude, erratic behavior, or loss of productivity. You should also regularly gauge the morale of your workforce and monitor situations that could develop into physical confrontations.

Properly educating employees about handling workplace disputes is critical. Use this recent tragedy as an opportunity to update and re-introduce "anti-violence" work policies so that employees are on notice that such behavior will not be tolerated. A "zero tolerance" policy is the best means of communicating the seriousness with which employers take the issue.

Managers and supervisors should be trained (or retrained) on conflict resolution policies. Looking for criminal convictions for violence when conducting background checks on job applicants is another good way of addressing the problem before it ever develops.

### **The Bottom Line**

There are a number of legal and interpersonal issues to be considered in order to minimize the risk of violent episodes in the workplace. The best way that employers can minimize these risks is through education, regular training, proactive monitoring, and consistent enforcement of anti-violence policies. Fostering an atmosphere that prioritizes mutual respect and free communication can make it less likely that you will experience tragedies such as the recent Minneapolis shooting.

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