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Workplace Bullying Gains Legal Ground: Indiana Supreme Court

BELLINGHAM, WA - On Tuesday this week the Indiana Supreme Court rendered its decision in the so-called "bullying trial." By a 4 to 1 vote, the Court affirmed the trial jury's verdict against Dan Raess, M.D. for his intimidating assault of Joe Doescher, former chief perfusionist and original plaintiff in the case. It restored the jury's award to Doescher of \$325,000. [Raess v. Doescher, No. 49S02-0710-CV-424, Indiana Supreme Court, 4/8/08]

Mr. Doescher won the March, 2005 jury trial in Marion County Court; Raess' appeal reversed the verdict; Doescher's Supreme Court oral arguments were heard on Oct. 10, 2007.

At trial, Gary Namie, PhD, Director of the Workplace Bullying Institute (WBI), testified that Dr. Raess a "workplace abuser." The success of the Raess appeal was partly based on admission of that expert testimony.

In the Supreme Court's reversal of the appellate court the justices commented that "workplace bullying could 'be considered a form of intentional infliction of emotional distress.'" Emotional distress is an acceptable basis for employment litigation; workplace bullying has not been.

"For too long, American employment law has ignored base cruelty in the workplace. This welcomed decision by the Indiana Supreme Court sends an encouraging message that workplace bullying should be taken seriously by our legal system," says Suffolk University Law Professor David Yamada.

There are no current American laws against workplace bullying. The WBI-Legislative Campaign is responsible for anti-bullying legislation (written by Prof. Yamada) introduced in 13 states since 2003. Three bills New York state bills are active in 2008. Earlier in 2008, bills died in Washington, Vermont & Connecticut.

"This legal opinion will certainly bolster the workplace bullying movement," says Gary Namie, He predicts that the farther-reaching effect beyond litigation will be to "legitimize workers who are bullied but disbelieved."

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Case documents can be found at: bullyinginstitute.org/education/indianacase.html