



## Are you sitting on a mob case?

### UNDERSTANDING WORKPLACE MOBING MIGHT AMPLIFY YOUR WORKPLACE BULLYING CASE

All employment lawyers should recognize the signs and symptoms of workplace mobbing, as the stakes increase when company mobs are involved. The terminology “mobbing” was coined in 1958 to describe how weaker animals will organize and gang up to ward away stronger rivals. Before the term was coined, Greek artifacts described mobbing and Aristotle wrote of the behavior in scientific literature. Stanford University (Ehrlich, Dobkin, & Wheye, 1988) studied mobbing behaviors in clusters of blackbirds and swallows who intensely group together to noisily demonstrate against an eagle, hawk, or owl in hopes that it will become confused and move along. Adult animals (birds, mammals, fish, invertebrates, reptiles) teach their young to recognize the battle cry and join the group in systematic vocal and non-vocal (body posture, movement) mobbing aggression directed at unwanted rivals.

#### What is human mobbing?

Merriam-Webster’s (2024) dictionary defines a mob as a large and seemingly disorderly crowd acting in riotous or destructive action. However, the National Institute of Health (NIH, Baran Tatar & Yuksel, 2019) published research defining workplace mobbing as anything but disorderly. The NIH publication described the trauma and mental problems inflicted on the victim of workplace mobbing as an intentional traumatic experience that consists of repeated, prolonged, persistent, negative activity and aggression directed at a person to the point of, at minimum, helplessness, defenselessness, and inability to cope.

Similar to the battle cry of mobbing birds, workplace mobbing may be initiated by an authoritative colleague, management, and/or a senior executive. If you are still not convinced workplace mobbing is a specific form of violence, consider that the World Health Organization (2002) declared its harmful outcomes so great that it was defined as a global public health issue.

#### The difference between incivility, bullying, and mobbing

The American Psychological

Association (APA, 2006) reminisced about the childhood school yard, and bullies sticking “kick-me” signs on the back of their victims. The APA warns that playground behavior has moved into office cubicles. In addition, they proclaim the health-related damages have increased dramatically.

Incivility, while annoying, disrespectful, and at times disruptive is defined by the APA (2006) as merely discourteous behavior. Bullying on the other hand is repeated, health-harming mistreatment, with the intent to do harm. Bullying can be verbal or nonverbal and is conducted by one or more people who are abusive, threatening, and/or intimidating. Types of bullying are not only observed (yelling, name calling), but can also be in the form of something not done such as intentional exclusion from meetings, leaving the target off important emails, micromanaging, and undermining the person’s reputation. Bullying is usually the result of an imbalance of power/leadership, interferes with an organization’s work, and, if left unaddressed, will dismantle an organization’s legitimacy.

On the other hand, the targeted employee of mobbing is typically high performing/achieving (Foster, 2012; Hillard, 2009) and usually unaware that the aggressive activities are well orchestrated. While some employees may look up to the mob target as a valuable contributor, the mob-forming group is convinced they should feel threatened and their safety or established norms are at risk. Mobbing is abuse, humiliation, and degradation conducted by a group of employees towards a specific and identified target with the intent to remove them from the organization (Sperry, 2009).

The mobbing victim will incur attacks on their dignity, integrity, credibility, and competence (Hillard, 2009). They will be humiliated in communication styles that are overtly cloaked, but contain intimidation, abuse, malevolence, and control. The victim will be portrayed as

the guilty party and/or at fault for an unreasonable amount or magnitude of issues. The orchestration of the mob is engineered in a discrete way that is intended to discredit, intimidate, isolate, and ultimately exile the victim.

This authority has perceived power or influence over the group, and they may infer adverse consequences will follow if the group does not comply. The leader may instigate the mob with an authoritative falsehood about the target. This lie is repeated frequently by the mob, and morphs into a secret truth. All the while the leader inserts additional falsehoods in an effort to strengthen the mob with narratives equating to an armory of ammunition that pummels the victim. Eventually, the falsehoods are socialized in depth and breadth, becoming common knowledge, and are considered factual across the organization (although not provable).

In some instances, the authority will pretend not to be aware or not recognize the mob’s activities. But, they often purposefully ignore/tolerate, encourage, and instigate the abuse. The overt authority who promotes a mobbing culture is usually weak, incompetent, and devious in their leadership at a systemic level. Building and reinforcing the mobbing mentality is the only way this incapable leadership will continue to govern. To ensure their reign is unchallenged, a mobbing organizational culture is established and supported by other executive-level peer groups.

#### Signs and symptoms of a client with mobbing damages

When legal counsel interviews a mobbing victim, they may initially think the individual is paranoid, or that so much evidence against this one employee can’t be entirely false. Like in the bird example provided earlier, human mobbing requires an authoritative individual in the group to proclaim another employee as a threat and rally followers to fixate on them with rapid bursts of aggression.

Workplace-mobbing damages must be evaluated by a professional from a multitude of vantage points: psychological, physical, sociological, economic, and legal. While the sustained nature of workplace mobbing induces great traumatic harm, legal experts should be keenly aware of the damages and note the level of severity and longevity. But it is worth mentioning again that a mobbing organizational culture is one that is not only sustained by an authoritative leader but is also promoted by that leader and most likely by the executive level/corporate structure to protect themselves from whistleblowers and those who identify safety or egregious flaws in the system.

The NIH (Baran Tatar & Yuksel, 2019) described mobbing victims as suffering from anxiety, depression, sleep problems, irritability, loss of concentration, and somatic disorders (physical symptoms, pain, weakness, shortness of breath, etc.). Since mobbing is considered a specific form of violence, it has been linked to Post Traumatic Stress Disorder (PTSD).

Your client may explain they avoid certain people, places, and situations; they may have reduced productivity at work, which is eagerly noticed by the mobbing authority as evidence needed to encourage their withdrawal from the workplace. Persistent traumatic mobbing at work is noted in psychological examinations which demonstrate the victim has been affected in their economic, social, and private life. Again, there is an overlap with PTSD according to the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV-TR).

Specific effects of persistent and prolonged mobbing of a victim should be diagnosed by a licensed clinical psychologist. An uninformed practitioner may exacerbate the problem, or worse yet, an opposing counsel-hired clinician for an examination may aggressively try to dismiss the trauma as paranoid delusions, which can cause additional harm.

Research shows long-term damage may be exhibited in the way the victim may self-assert, communicate, and socially interact. The victim may never regain confidence and consider their reputation permanently damaged; an artifact from the mob's gossiping, slander, ridicule, and threats.

Under psychological evaluation, the victims display adjustment disorders, somatization in the form of headaches, irritable bowel syndrome, and depression. It is not uncommon for these victims to become dependent on alcohol or other substances. It is important to note the family also suffers as they watch their loved one deteriorate.

Hillard (2009) noted that in the early stages of mobbing, over 30% of these victims become divorced or break up with their partners. The victim's quality of life may be impacted along with their occupational outlook as the mob may have pigeonholed them, shifted their work responsibilities, and/or given them meaningless tasks. The victim's physical health should also be evaluated, as the mob may have isolated them away from health promotion/educational activities, and/or threatened them with violence.

### **What discovery is needed to prove mobbing?**

An article in Current Psychiatry (Hillard, 2009) reinforced mobbing as a deliberate and steady campaign inclusive of "a desperate urge from an authoritative leader to crush or eliminate the target by hostile ploys and communication that appear to the group to be legitimate." Remember, the victims of mobbing have suffered severe trauma; they are not simply paranoid.

Prolonged mobbing victims typically have large quantities of evidence. While weeding through their voluminous records may seem like an ominous task, the trained eye can extract and chronologize the most rewarding evidence necessary to prove causation and that the workplace conspiracy existed and was sponsored at a leadership/system's level. It is imperative that legal counsel not only obtain all the records

the victim has acquired, but they should also:

- Ask the victim (multiple times) if they have text messages/photographs on their work and/or personal phones, emails on their personal devices (computers, tablets), and printed materials, including company handbooks, orientation/training manuals, etc.
- Not disregard statements made by the victim even if the victim appears to minimize their thoughts, as the victim is in a vulnerable state, and they might not currently realize just how important certain evidence may be that they have in their possession.
- Inquire with the victim whether their boss changed the nature of their work/responsibilities in a material way. This often takes the form of changes in work assignments, frequent moving/transferring the victim in and out of roles or departments, abruptly changing tasks, removing important work and adding grunt work others do not want to do.

The following are a few additional hints as to where else legal counsel might find the evidence needed. Ask for:

- Employee human resources file. No brainer, but make sure you receive confirmation that what they give you is fully inclusive.
- Employee health records if the organization has an occupational/employee health office.
- Shadow files (not official human resource records) kept on the victim by human resources, their boss, or other departments (risk management, training/development, etc.).
- Emails and texts (on company or personal devices) that mention the victim. Inclusive of the victim's boss (and higher), peers, and subordinates.
- Voice messages stored and/or transcribed to text where the victim is mentioned.
- Employee satisfaction surveys. Request all of the quantitative and qualitative/narrative data, as employees may use words like; unsafe, distrust, plotting, clicks, don't rock the boat, don't create waves, retaliation, leadership plays favorites, etc. While the employer will contend these surveys are anonymous,

they take precautions to de-identify anyone that might be recognizable so they can publish the results. Ask for all of the data, de-identified, even data that was not published within the organization.

- Depose the secretaries/administrative assistants/clerical staff as they hear everything and often keep records (calendar notations, emails, notes) related to hallway and coffee room chatter.
- Employee hot line, or employee complaint/feedback forums. This may take the form of electronic anonymous submission, verbal dialogue with an outside vendor, or town halls where meeting minutes were taken.
- Employee exit surveys. Human resources acquires the data for annual reports, but also ask for de-identified surveys from employees who formerly reported to the mob activists/leader(s).
- Organizational charts from all the years the victim was employed. Obtain charts that represent positions above the victim and charts that reflect peer groups and roles reporting to the victim.
- Notes from your client and their boss (and other leaders) from one-on-one meetings. These may take the form of sessions designed to mentor, coach, obtain feedback, verbally discipline, and/or discuss career pathing/professional development.
- Performance appraisals of the victim, boss, and those contributing to the mob.
- Many organizations offer Employee Assistance Programs (EAP). These are confidential sessions between the employee and a licensed professional (social worker, psychologist, etc.). Obtain authorization from the victim to acquire all notes from any sessions they had with EAP resources.

### **Mobbing valuation**

The victim of workplace mobbing may initially try to resist the trauma or keep a low profile, but as it persists, the victim may realize it is unrelentless and immediate escape is not possible/feasible. While they endure, so does the mental and/or physical abuse. They may consider temporarily stepping away from work to

address their suffering, with full intent to reenter the workplace. However, some victims may suffer long-lasting disabilities. The victim of this serious stressor can have psychiatric and medical comorbidities, which could consist of major depression, PTSD, and suicidal ideations.

Victims of mobbing trauma frequently miss days of work, may take extended time off without pay, and are often voluntarily or involuntarily terminated. Remember, the goal of the workplace mob is to force the victim to leave the company. In these types of employment law cases, legal counsel commonly resorts to calculating a case valuation based on lost wages/earnings. The victim may be encouraged to never return to that employer, and formulas for lost wages are enacted.

Running away and never looking back may not be the best path for psychological recovery. Of course, a clinical psychologist is the best resource to help the victim assess their next steps. But legal counsel should consider what it would mean for the victim to win the case, which includes returning to the previous employer/job. Lost wages for time off up to the point of returning may still be considered in the valuation, but returning to the job may offer additional valuation opportunities and a higher level of recovery for the victim.

When the victim returns, they will most likely need accommodation and the emotional/psychological burden they will be confronted with will require continued professional support. The victim and their psychologist may agree that the gratification of returning to a job/career they loved could be (if continually monitored) in their best interest.

Remember, the victims of workplace mobbing are typically high performing and may not return to their high confidence state unless they successfully confront their predators. The return of a mob victim may also send a resonating message to the organization that a change in culture is occurring (being put on notice), especially if the mob leader (through litigation, natural attrition, etc.) is terminated. This

may be the case with whistleblowers who are forced out of their jobs.

While lost earnings is important in the valuation equation, it is equally important for legal counsel to remember the necessary component of executive/systemic complacency required for workplace mobbing to be successfully executed. As discussed earlier in this article, a threatened leader teaches their followers how to recognize the battle cry. Most likely these leaders have orchestrated many successful mobbings and their followers are groomed into expedient action.

Followers may do this out of fear of retaliation from that leader, as they have witnessed that leader's unethical abuse of authority, with no corrective action from the company's executive level (an example of what they permit, they promote). The leader is relentless in their pursuit of constant and persistent aggression towards the victim. If you have one mobbing victim, there are probably numerous ones prior to yours, and the mobbing will continue unless some type of organization-wide/system level consequential messaging occurs.

The victim is usually high performing, will most likely be confused at first, over-rationalize/use logic, try to demonstrate they are righteous, and are convinced the truth/justice will prevail if they just keep doing a good job. While the organization/company turns a blind eye, the workplace mob authority/leader will ensure their victim's trauma is repeated and prolonged until the victim is rendered helpless and unable to cope. If confronted, the leader along with their executive support/peer group, will deny culpability. However, there is no possible way such an act of violence goes unnoticed/unsupported. Remember the WHO (2002) contended mobbing is a global public health issue.

Therefore, workplace mobbing's root cause is the organization or company as a whole. The organization should be held responsible. For any of the survivors, victims, and existing employees to recognize justice was served, change must occur, a loud and resounding "you were caught" must be inflicted on the employer.

*Dr. Nancy B. Valla has a Ph.D. in industrial and organizational psychology, Master of Education in human resources, and bachelor of science in nursing. She is the executive director/president of VALLADATION, where she focuses on defendant and plaintiff litigation support in the areas of employment law, health system/hospital negligence, personal injury, patient standards of care, and wrongful death. [www.valladation.com](http://www.valladation.com) [nancy@valladation.com](mailto:nancy@valladation.com).*

## References:

- American Psychological Association. (2006). Still wearing the 'kick me' sign. <https://www.apa.org/monitor/julaug06/kickme>.
- Baran Tatar, Z., & Yuksel, S. (2019). Mobbing at workplace-psychological trauma and documentation of psychiatric symptoms. *National Institute of Health; Archives of Neuropsychiatry*, (56), 57-62.
- Ehrlich, P. R., Dobkin, D. S., & Wheye, D. (1988). Mobbing. *Stanford University*. <https://web.stanford.edu/group/stanfordbirds/text/essays/Mobbing.html>.
- Foster, P. J. (2012). Leader-member-exchange and the workplace bully. <https://krex.k-state.edu/items/69678c2c-9db3-4f7d-bb36-6e0999acc904>
- Hillard, J. R. (2009). Workplace mobbing: Are they really out to get your patient? *Current Psychiatry*, 8(4), 45-51.
- Merriam-Webster Dictionary. (2024). Mobbing. <https://www.merriam-webster.com/dictionary/mobbing>
- Sperry, L. (2009). Mobbing and bullying: The influence of individual, work group, and organizational dynamics on abusive workplace behavior. *Consulting Psychology Journal: Practice and Research*, 61(3), 190-201. <https://doi.org/10.1037/a0016938>.
- World Health Organization. (2002). Report on violence and health. <https://www.who.int/news/item/03-10-2002-first-ever-global-report-on-violence-and-health-released>