

## EMPLOYMENT LAW UPDATE

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September 19, 2003

Issue No. 85

California Law

### ***USS-Posco Industries v. Edwards* (1<sup>st</sup> Dist., August 18, 2003) 03 C.D.O.S. 7474**

#### ***Employer May Seek Restraining Order On Behalf Of Employee Who Was Not Specifically The Target Of Harasser.***

*By Jason A. Geller and Shoshana Y. Chazan*

USS-Posco Industries (UPI) terminated plaintiff Ezell Edwards as a result of its investigation of threats he made in the workplace. Specifically, after being reprimanded by several supervisors for failing to wear his safety goggles, Edwards made the following statements, among others: "... I'm going to come in gunning. I'll shut the office door and let them fly. The day you see me with a lunchbox, because I don't use one, get ... out of the way because there is going to be a gun inside." Further, Edwards was heard comparing USS Posco to the USS Columbine.

After Edwards' termination, manager Lynette Giacobazzi informed Michael Connally, Labor Relations Manager of these comments and the results of her investigation. Connally signed a petition seeking protective orders under section 527.8 of the California Code of Civil Procedure, requesting that Edwards stay away from Giacobazzi and the UPI premises. The Court granted a temporary restraining order. After a hearing, the court granted UPI a three

year-injunction, finding clear and convincing evidence of credible threats of violence by Edwards.

Section 527.8 states, in part: "Any employer, whose employee has suffered unlawful violence or a 'credible threat' of violence from any individuals, ... may seek a temporary restraining order and an injunction on behalf of the individual." On appeal, Edwards argued that because he made no threat directed specifically at Giacobazzi, section 527.8 did not authorize the issuance of an injunction protecting her.

The Court found that the legislative intent of Section 527.8 is to provide employers with the remedy of injunctive relief to protect their employees from violence where it is reasonably likely to occur. The Court found that it would be "absurd" to read the statute in a way that would provide no protection against a generalized threat to indiscriminately shoot employees on the premises.

Therefore, an employer may seek relief under 527.8 on behalf of any employee

who is credibly threatened with violence,  
whether or not that employee is  
specifically identified by the defendant.

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