

EMPLOYMENT Laws 2010

Rucshner v. ADT Security Systems Inc., et. al., 149 WN. App. 665 (Div. II 2009) *Negligent hiring, duty of care; proximate causation*

A Summary judgment against an employer of a person who raped a minor.

A security alarm company, ADT, contracts with Puget Sound Protection (PSP) to do door to door solicitation. The contract between ADT and PSP required PSP to do criminal background checks on the people to be hired by PSP. PSP neglected to do a background check on all of its employees. Its managers had discretion as to whom to hire. This was due to a high turnover rate and the cost of background checks and drug screens.

Mr. Robinson was hired by PSP without a criminal background check. He falsely answered he had no criminal history. He did have such a history - a fairly extensive one.

While employed by PSP, Robinson came to a home in which there was a minor female. He tried to befriend her on a number of occasions. Over a course of "several weeks" Robinson called the minor to learn if she would "hang out". About two months after his initial sales call to the home as an employee of PSP, Robinson raped the minor. Robinson plead guilty to third degree rape. The mother of the minor sued Robinson, ADT and PSP for negligent hiring. They successfully moved for summary judgment.

The tort of negligent hiring has these elements: 1) That the employer knew or should have known that the employee was unfit at the time of hiring and 2) that the negligently hired employee caused the plaintiff injury. The contractual duty to conduct criminal background checks of PSP employees "creates a genuine issue of material fact as to whether PSP's breach of this...duty proximately caused the harm to [the minor.]"

Robinson was put into a job where he went to homes of people "working in a door to door setting necessarily put him into contact with children and anyone else who happened to be present in the home."

If was a fact that hiring Robinson without a criminal background check and his rape of a minor two months after an initial sales call were related.

ORCA ♦ WISDOM ♦

We sometimes think that people or society are forcing us to do certain things, or that circumstances just come out of the air, but there is a cause behind everything that happens. "As ye sow, so shall ye reap." There are no such things as chances or accidents or luck. We mold our own lives by the way we have thought and lived.

**In observance of Labor Day,
our office will be closed on
Monday, September 6th**

Fraudulent Activity Warning

Over the last several weeks, we have witnessed an alarming increase in the amount of fraudulent activity being reported. This activity currently appears to target, and has already affected the mortgage industry, although anyone can fall prey to these scams. One of the more common examples involves an email claiming to be from UPS. This email indicates that UPS is attempting to deliver a package, but has been unsuccessful in doing so due to an incorrect address. The body of the email contains a link to update this information, which when clicked, silently installs a "key logger". This key logger captures every key stroke made and sends that information to the hacker. With this information, the hacker is then able to access personal information and potentially commit other acts of fraud, such as identity theft.

Below are a few steps that should be taken immediately as well as a few industry best practices to reduce future risks/exposure.

The following are steps that should be taken immediately to ensure the workstations are not currently infected. These steps include:

1. Ensure that each computer has anti-virus / anti-spyware programs running and that the signatures are current.
2. Ensure that each computer has an appropriately configured firewall service running.
3. Using your anti-virus program, run a full scan on all computers periodically.

The following are a couple of industry best practices that will help reduce your exposure. These include:

- User Awareness - Remind all users that they should not open any email attachments or embedded links from unknown sources.
- Anti-Virus - Set Anti-Virus programs to automatically update virus signatures or embedded links from unknown sources.
- Passwords - Change passwords often. To be effective, passwords should be complex and not easy to guess.

Approved Pre-Bankruptcy Debt Counseling

Note: Each person who wants to file a bankruptcy petition under either Chapter 7 or Chapter 13 must first obtain pre-bankruptcy debt counseling from one of the approved agencies for the state of WA.

The counseling must be accomplished within the most recent 6 months prior to the date we file your bankruptcy petition with the court.

You must obtain a written certificate from the counseling agency to verify that the counseling was provided. We will need to file this certificate with the US Bankruptcy Court at the same time we file your bankruptcy petition.

The debt counseling agencies may charge a fee for their service, or they may agree to waive the fees based on your financial circumstances. If there is a fee, you will be responsible for paying it directly to the debt counseling agency.

You do not have to complete the counseling or obtain the certificate before you hire the attorney to start work on your bankruptcy case; we must have the certificate of completion in our office, however, before we can file your bankruptcy petition.

Approved credit counseling agencies can be found at www.terencecarroll.com

Criminal Record Comparison

We searched 4 popular criminal databases...see what we found!

Applicant 2, E.H. 72-year old male:

Orca Information	Instant Database #1	Instant Database #2	Washington State Patrol
7/3/04 Unlawful Issuance of Bank Checks, ACTIVE WARRANT	No Records Found	No Records Found	No Records Found
10/14/02 Unlawful Issuance of Bank Checks, ACTIVE WARRANT			

Applicant 3, F.J. 47-year old male:

Orca Information	Instant Database #1	Instant Database #2	Washington State Patrol
5/14/09 Child Molestation 2nd Degree-Domestic Violence related, ACTIVE CASE	9/19/03 DUI amended to Negligent Driving, Guilty	1/3/03 Assault 2nd Degree amended to Assault 4th Degree, Guilty	5/14/09 Child Molestation 2nd Degree, Status Not Received
9/17/03 Driving Under the Influence amended to Negligent Driving 2nd Degree, Committed	6/20/03 Assault 4th Degree, No Finding	9/19/03 DUI, amended to Negligent Driving 2nd Degree, Guilty	12/31/02 Assault 4th Degree, Guilty
12/31/02 Assault 2nd Degree amended to Assault 4th Degree, Guilty			

Got Forms???

Call Rebekah at ext. #103 for ANY of the following:

- Pest Control (Bed Bug) Addendum
- Roommate / Security Deposit Addendum
- Pet/Service Animal Policy
- Crime Free Addendum
- Domestic Violence Addendum
- Animal Fee Addendum
- Contractor Agreement
- Tenant Insurance Addendum
- Harassment Policy
- Tobacco Smoke-Free Area Addendum
- Notice of Trespass
- Receipt for Partial Payment After Eviction

Se Habla Español!

Finally they're here! If you are in need of Spanish Applications, please **EMAIL** your request to orca@orcainfo-com
Please include your company name, management company name if applicable and the phone and fax for the side of the applications.
If you ever need or want new / updated English applications, please do the same!!

Gracias!

SEARCHING JUVENILE RECORDS

A testimony from a site manager in Seattle

Hello Rebekah,

These new rental applications are great! I want to comment on the inclusion of Juveniles Ages 12-17. Bad juvenile behavior has caused a number of evictions in our apartments. It is a sad fact. Many times we have admitted teenagers then later find out they are gang members. They bring that activity into the apartment building. One 13 year old had a juvenile record that surpassed that of most adults (we found out the hard way-after they moved in). A resident's son was involved in a gang shooting and the wounded gang member was brought into our apartments! A couple months later the boyfriend of one of our young female occupant's was murdered by gangs. We need those juvenile court records if we want safe housing for our occupants.

Thank you!