



## Employment Screening

### Jury Awards Over \$1 Million in Negligent Hiring Lawsuit - Workplace Violence

November, 2016

A jury in Texas has awarded more than \$1 million in a negligent hiring lawsuit filed against a company on behalf of an employee who was killed on the job by a co-worker. They claimed the company knowingly provided an unsafe workplace for employees.

On April 1, 2015, at the workplace premises Steven Young shot and killed co-worker Jacob Matthew Cadriel with a 38-caliber handgun. Young was arrested and charged with murder. He is currently serving a 45 year sentence.

The negligent hiring lawsuit claimed the employer **failed to "conduct comprehensive employment background checks and criminal record searches on their employees"**.

The company was negligent because it "failed to listen to numerous workers at the facility who repeatedly reported the erratic and unstable behavior of Young" and also **"failed to provide training or education on identifying and handling this type of violent behavior in the workplace."**

In 2008, Young was "arrested, charged and convicted of carrying an illegal weapon on the jobsite." In 2014, he was "arrested and charged with making a terroristic threat." He was out on bond awaiting trial when he murdered Cadriel. "Out on bond" means this court record would show on a screening report as an ACTIVE CASE "if" the a criminal check had been processed.

Sadly, the instant, Nationwide Criminal databases many employers use for their criminal records search does not report ACTIVE CASES OR ACTIVE WARRANTS. "You will never see an active case from an Instant Database even if they do "claim" to be Nationwide and thorough", states Rebekah Near, owner of Orca Information, Inc. a background screening company providing thorough employment screening reports in all 50 States. Rebekah adds, "We try to educate our clients and HR professionals but there is still a lot of misunderstanding when it comes to Instant Nationwide criminal databases. They just are not reliable. Cheap – yes. Reliable – no!"

The jury returned its verdict stating "the employer was negligent, the premises was in an unreasonably dangerous condition, and failed in their duty to warn Cadriel of the highly foreseeable likelihood of harm, which contributed to his death."

The jury awarded for the estate of Mr. Cadriel his pain and suffering, medical bills, lost earning potential, and his wife's loss of companionship.

"When an employer fails to exercise due diligence and a person is harmed by an employee, that employer can be sued,". "The name of the legal action is **negligent hiring**".

Every employer has an obligation to exercise reasonable care for the safety of others when hiring workers. The legal description of that duty of care is called due diligence. "If an employer hires someone who they either knew, or in the exercise of reasonable care should have known, was dangerous, dishonest, unfit, or unqualified for the position, and it was foreseeable that some sort of injury could happen as a result, the employer can be sued for negligent hiring,".

Data from the U.S. Bureau of Labor Statistics (BLS) shows that deaths related to workplace violence by co-workers is rising nationwide. 61 people were killed by workplace violence at their jobs by a co-worker in 2014, up from 49 killed in 2011.

**For more information on our "comprehensive" employment screening services, contact Rebekah Near, [rebekahn@orcainfo-com.com](mailto:rebekahn@orcainfo-com.com)**

**NEW!**

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### BOOK A CLASS!!

- ◆ On February 1st Seattle Office of Civil rights laid out a "process" for compliance.
- ◆ Landlords are being shopped by government agencies.
- ◆ Train your staff on Disparate Impact.

Contact Rebekah at:

[rebekahn@orcainfo-com.com](mailto:rebekahn@orcainfo-com.com)

### Employment Screening

Welcome!

To all the businesses who joined our Orca Pod in February!

### Orca Wisdom

"Accept the challenges so that you can feel the exhilaration of victory"

General George S. Patton~



## Tenant Screening

### Landlords Sued!! Crimes Committed on Property

A tenant sued a landlord for \$1 million because she was raped by a man who broke into her apartment. She contended the landlord should have warned her the neighborhood was high-crime.

He was threatened with a second lawsuit because a prospective tenant was raped by a man who wandered in off the street while she was looking at an apartment. He also faced four more lawsuits from tenants victimized by other crimes.

“This really scares me,” said the landlord, facing at least six lawsuits.

Plaza Realty Co. and Douglas Realty Corp of New York lost a \$44.5 million liability suit brought by a woman who was shot and paralyzed by her jilted boyfriend in the lobby of Plaza’s and Douglas’s apartment building.

Another tenant sued her landlord because she was assaulted by another tenant’s monkey. First time around, the landlord won, but on appeal lost the case. Eventually the two parties settled out of court. The tenant said she complained about “screaming, screaming, cheeping, howling, squealing, and cooing” sounds emanating from her neighboring apartment. She was attacked during a visit to the apartment where she saw “hundreds” of birds, as well as squirrels and a monkey. Pets weren’t allowed in the apartments.

It’s enough to make any landlord stop and think, do I want to be in this business? Can I ever be immune to all the lawsuits in this increasingly litigious society? If a landlord knew, should have known, or could have known, he or she can be liable for injuries and damages and can never be immune.

Landlords are responsible the same way as employers in workman’s compensation cases. It doesn’t matter who is at fault; the landlord pays. This holds true even if the landlord wins a court case. He or she has to pay the lawyer and go through the stress of the court proceedings.

By Robert L. Cain

### Disparate Impact Update

In January and February over 800 Landlords and Property Managers attended classes from Bellingham to Lacey, WA. Rebekah Near shared vital information on complying with HUD’s “new” ruling for use of criminal records.

### **Winners!!!**

Four people won the \$10.00 Starbucks Card! They answered the questions correctly and won!

Winners are: Marlee Andrade, Paragon Apts

Greg Cockran, Moses Lake, WA

Denise Graves, Whispering Rivers Apts

Gloria Delgado, Grant County Housing Authority

*Congratulations!*

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### **Employee of the Month**

**Cynthia Aguilar** has been a member of the Orca Pod for six years. She is bilingual, accurate when preparing screening reports, and always positive.

Congratulations Cynthia!

### **Orca Wisdom**

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