



Employers Reminded Of Workplace Violence Dangers

Insights

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A new case on workplace violence in Missouri demonstrates the practical and legal challenges many employers face in today's environment. The case shows the risk extends beyond violence by employees to violence by nonemployees – particularly in situations involving domestic abuse.

Background: Employee Assigns Partial Blame For Tragedy On Employer

The facts of the case are unique. On November 20, 2012, an employee walked to her minivan in the company parking lot. Her estranged boyfriend, who was hiding in her minivan with a gun, chased her down and shot her in the back of the head. The employee survived and filed a lawsuit against the employer for negligence. On November 15, 2015, a Jackson County jury awarded \$3.25 million against the employer.

Because of previous criminal activity in and around the property, the employer apparently had created an *ad hoc* security team for the facility with members drawn from its own employees. The head of the security team was the HR Director, although the employee alleged that neither she nor any of the security team members had any law enforcement or “security” training. The company had, however, installed surveillance cameras on the outside of the building with monitors located in the HR Director's office.

The employee claimed that she had reported concerns about the boyfriend to the employer's HR team on several prior occasions. On the day she was shot, the employee and the boyfriend had attended a court hearing regarding dismissal of a protection from abuse order against the boyfriend. When the employee arrived for work, she claimed she reported the dismissal of the protection order to the HR Director, who allegedly assured her the security team would be notified and would keep an eye out for the boyfriend.

However, the employee claimed in court that the HR Director failed to do as promised. The employee's attorney argued that the company had a policy of escorting employees to their vehicles when appropriate for safety reasons, yet no one did so on the day in question.

We did not handle the case and do not have first-hand knowledge of the facts, but the verdict is an extraordinary result. The employer tried to help the employee, but was still sued and hit with a huge verdict.

What Does This Mean For Employers?

Like the workplace shootings that have occurred with all-too frequency in recent years, this case demonstrates the horror of workplace violence and the difficulty employers face in trying to protect employees.

With the benefit of hindsight, the employer in this case might have considered other protective actions. These might have included giving the employee time off, sending her to the police, directly contacting the police, bringing in private security, or more carefully monitoring the parking lot. Certainly, this case suggests that you will want to be cautious about making any promises concerning security, and serves as a reminder that you should be careful to follow through on any such representations.

The sobering truth is there is no way to completely eliminate the risk of workplace violence. Even diminishing the risk is a great challenge for management.

With respect to managing legal risks, one possible step is drafting and implementing a valid arbitration program that covers all workplace-related events or claims. Such a program would likely lessen the chance of a successful legal claim against the employer, and virtually eliminate the risk of such a large monetary judgment against the employer. Training also can help human resources and other employees deal with potentially violent situations.

You should also check with your insurance broker to make sure your general liability policy covers such a situation involving violence in the parking lot after work.

If you have any questions about this case, or how it may affect your business, please contact your Fisher Phillips attorney or one of the attorneys in our Kansas City office at 816.842.8770.

This Legal Alert provides an overview of a specific case. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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