

Examples of Recent Cases Served

By Thomas C. Lawson, CFE, CII, Expert Witness of Record

Employment/Negligent Hiring/Negligent Retention/Negligent Supervision:

1. **Allie v. LA Fitness** Orange County Superior Court 70-18-08(California). This was a case where an unscreened applicant was negligently hired by a health club, and was provided keys to the club in order to reside in the club until his apartment was ready to occupy. The day he was hired, he went to a local bar, befriended a just turned 18 year old female, invited she and her girlfriend to the club to go into the Jacuzzi. They went to the club willingly, and the Defendant escorted the Plaintiff to an upstairs locker room where he sexually assaulted her. The case settled after less than 2 hours of the expert's deposition testimony (stopped in progress by Defense Counsel) when the tendered settlement offer of \$30,000 was increased to \$180,000. Employed by **Plaintiff's** Counsel, **Kevin Gallagher, Esq.**
2. **Wishum v. RiteAid** Los Angeles Superior Court BC 209910 (California). Case involved the negligent hiring of an autonomous, uniformed Security Guard with a conviction history for Sexual Assault. The Defendant was hired to act as a uniformed Security guard in a satellite Drug Store, without the benefit of a competent background check, even though the company had a policy in place to screen its applicants. Willful non-compliance with the company policy was evidenced by the Company's failure to simply validate a California "Guard Card" which was tendered by the applicant during the job interview, and, if researched, would have been determined to have been "revoked" because of prior sexual assault and Arson convictions. Within two weeks of hire, the Defendant sexually assaulted a 13 year old girl. He was administratively "suspended" but continued to remain in his position as autonomous Security Guard, in light of the suspension, at the instruction of his supervisors, while the sexual assault complaint was "investigated". Shortly after the first assault, the Defendant identified the Plaintiff, a 14 year old girl as a shoplifter, as a ruse to intimidate her. He escorted her to a sequestered, locked interview room, handcuffed her, and sexually assaulted her. Upon arrest and conviction, and after the matter was brought before the Court, an offer in the hundreds of thousands of dollars was tendered by the co-Defendant. After 7 hours of the expert's deposition testimony, the co-Defendant increased their settlement offer to an amount in the neighborhood of \$2.4 Million (sealed). Employed by **Plaintiff's** Counsel, **Brian Panish, Esq. of Greene, Broillet Taylor, Wheeler and Panish**
3. **Mycom v. Persona** Alameda Superior Court CO8024943 (California) This case involved the placement of a temporary worker by the Defendant, into the Plaintiff's firm, without the benefit of a background check. The temporary employee embezzled money from the Plaintiff's firm, after being placed by a Temporary Agency as an Assistant Controller. Had the Defendant conducted even the most rudimentary background check, which would have included a reference check with a prior employer, it would have learned that the temporary employee had a history of theft. The case settled after the expert's opinion was rendered through Declaration, primarily because of the fact that the Defendant touted that it's "temps" were "thoroughly referenced and screened". Employed by **Plaintiff's** Counsel, **William P. Davis, Esq.**
4. **O'Malley v. Camelview Domestic Placement Service/ Carol Hasher (etal)** Maricopa County Superior Court CV 2001-004644 (Arizona). This case involved the placement of a male Nanny to care for two male children. The Nanny molested both of the boys, and is currently incarcerated. The Defendant failed to conduct thorough reference checking and background screening, since one of the Nanny's listed references identified in a subsequent interview that the subject had molested her child. The subject had prior convictions for child molestation. The case settled shortly after expert's assessment for an amount between \$1 and \$2 Million. Employed by **Plaintiff's** Counsel, **James R. Page, Esq.**
5. **Audra F. v. Camelot Park** Kern County Superior Court 234190 RA (California). Case detail requested not to be divulged. – Negligent Hiring matter. Case settled after expert's Declaration. Employed by **Defense** Counsel, **Jay Lloyd Rosenlieb, Esq.**
6. **Perez v. Fitness West** Maricopa County Superior Court CV2001-014050 (Arizona). This Negligent Hiring/Negligent Retention case involved a Night Manager/Security Guard hired by the 24-Hour Health Club Defendant. The employee was discovered to have been residing in an abandoned Air Conditioning duct on the roof of the Health Club. Upon discovery of this, the Defendant admonished the employee for living in this manner and asked him to remove himself from the makeshift residence. As a retaliatory act, Plaintiff alleges that the employee sexually assaulted, and murdered (by bludgeoning) a female patron, in the Women's steam room, then wrapped her body in a rug, dragged the decedent into the alley, next to a dumpster and set the rug-wrapped corpse on fire. Upon interviewing the employee, the Phoenix Police Department took him into custody and charged him with the murder. Shortly after the arrest, additional charges for another, unrelated murder were filed against the employee. Plaintiff alleges that the Defendant failed to conduct a routine background check on the subject in the initial hire, and in a subsequent re-activation of his employment with the Health Club, as well as violated it's own internal hiring policies which, if followed might have precluded the hiring of the employee, *imprimis*. The matter was settled after expert's deposition. Employed by **Plaintiff's** Counsel, **Messrs. Herbert Ely and Burt Rosenblatt, Esq.**

7. **Johnson v. Totally Secured, Inc.** Los Angeles County Superior Court BC 239684 (California). Case involved a determination as to whether or not “reasonable care” was exercised by a Security Guard service “to the Stars” in the hiring and maintenance of their front line Security guard employees. It was alleged that two security guards were hired with extensive criminal backgrounds, which manifested in the physically aggressive handling of multiple routine security matters, resulting in injury and mistreatment to civilians and employees of client’s of the Defendant. Two of the co-Defendants had violent acts convictions in their records, which should not have been ignored, and would have been discovered prior to hiring, if a competent background check was undertaken by the Defendant. Case settled after Assessment rendered by Expert. Employed by **Plaintiff’s** Counsel, Randy Renick, Esq.
8. **Treick v. St. Jude’s Ranch for Children** Clark County, NV District Court, A493499. Case involves civil prosecution of the Defendant for Negligently Hiring Larry M. Wisenbaker, referred to by the Clark County District Attorney as “the most prolific serial sex offender we have ever prosecuted in the State”. Wisenbaker is presently serving three consecutive life sentences for the sexual molestation of several boys while serving as a “cottage parent” in this home for disadvantaged children, Case Settled for \$5.4 million, Employed by **Plaintiff’s** Counsel, G. Dallas Horton, Esq.
9. **Perez v. Stanley Bostitch (etal)** United States District Court, for the Western District of Texas, San Antonio Division, Civil Action # SV-06-CA-0144-FB. Case involves a failure to properly screen an autonomously based, vehicle-assigned employee with a history of drunk driving. The employee, while driving a company vehicle, on non-company business during non-regular business hours, was involved in an auto accident, while legally intoxicated which resulted in two deaths. Case Pending, Employed by **Plaintiff’s** Counsel, Shiree Salinas, Esq.
10. **Maria D. v. Comcast; KROLL Backgrounds America (etal)** Sacramento County Superior Court 03AS05745 (California) Complex case involving the negligent hiring of an employee, a convicted sex offender, who, while employed by a Comcast subcontractor sexually assaulted the Plaintiff, a legally incompetent, partially blind, and partially disabled female. Expert was retained to assess the performance of the primary background screener, KROLL and it’s subcontractor since it was alleged that, upon secondary review of the criminal records of the primary county researched, the KROLL sub-contractor was determined to have missed a criminal record which could have precluded the employee from being hired, *in primis*. Case Pending, Employed by **Defense** counsel to KROLL Subcontractor, CIC Employment Services, Inc.; Paul Clauss, Esq. of Lewis Brisbois, Bisgaard & Smith
11. **Barajas v. Mental Health Systems** San Bernardino County Superior Court (California) Case # SCVSS 107724. Case involves the negligent hiring, retention and supervision of an employee, issued a vehicle to perform autonomous job duties. While in said vehicle, employee was involved in an automobile accident which caused physical injury to the Plaintiff. Case Pending. Employed by **Defense** Counsel Vivian I. Schwartz, Esq. Counsel to Safeco Insurance Company

Credit/Privacy:

1. **Howell v. Nissan Motor Acceptance Corp.** United States District Court, for the District of Arizona, CIV 02-0962 PHX RCB. Case involved Plaintiff allegations that Defendant improperly reported information relative to an outstanding obligation owed by Plaintiff to credit bureaus, which resulted in the damaging of Plaintiff’s ability to obtain new lines of credit. Status Pending, Employed by **Defense** Counsel William M. Auther, Esq. BOWMAN & BROOKE, LLP
2. **Walters v. Bedell** Los Angeles County Superior Court BC 243352 (California). Case involved Invasion of Privacy. Secrecy requested. Expert assessment expedited privacy issues in this matter. Employed by **Plaintiff/Cross-Defendant** Counsel: Christine Lyden, Esq.

Investigative Standard of Care – Jury Trial:

1. **Caserta v State Farm Insurance/National Insurance Crime Bureau** San Diego Superior Court GIC 739803 (California). Case involved retention of Expert to determine if the Standard of Care for field investigations was violated by Defendant, National Insurance Crime Bureau. Plaintiff tendered an allegedly fraudulent claim to State Farm, which was rejected because it failed to meet the legitimacy tests of the Special Investigations Unit of State Farm. State Farm referred the matter to co-Defendant NICB, an industry supported neutral investigative body for supplemental investigation concerning the claim. Plaintiff Caserta alleged the Defendant violated the Standard of Care for field investigations by alleging that the female field investigator “roughed-up” the Plaintiff and his family. The field investigator was, at all times accompanied by the San Diego Police Department when visiting the Plaintiff and his family. The matter was presented to the jury, which rendered an 11 to 1 verdict in favor of the Defendant. Polled jurors indicated strong belief in the Defendant’s position, and believed, unequivocally, the testimony of the Expert. Employed by **Defense** Counsel, Messrs. Stanley Calvert and William Roberts, Esq.: Wilson, Elser, Moskowitz, Edelman and Dicker, LLP.

“Textbook” Fraud/Internal Theft/Bank Procedures Malfeasance:

- 1. Eurobath & Tile Co., Inc. v. Zamborski** Orange County Superior Court 534803 (California); & **Eurobath & Tile Co., Inc v. Home Federal Savings & Loan Assn, Zamborski (etal)** Orange County Superior Court 571799. Case involved a bookkeeper/”controller” for the Plaintiff who methodically “raised” the amount of his paycheck each two weeks in the amounts of \$5,000 and \$6,000 respectively, over a 39 month period of time, effectively “embezzling” over \$300,000. Additionally, the Defendant stole checks form the mail, and endorsed them with the company’s name, and then his own name and deposited them into his personal bank account at Home Federal Savings, through the automated teller machine. One of the items converted was a California State Tax Warrant which he signed and deposited in his personal account. The case was successfully prosecuted, privately, confessions were obtained, assets recovered, and liquidated, and the Plaintiff’s made whole. A landmark case was decided against the receiving bank, Home Federal Savings, as they were held to a basic audit and review standard insofar as accepting 2-party checks without proper scrutiny of the items for “deposit applicability”. Furthermore, the case exemplars, in their entirety were later used as , and incorporated into the training manual for investigators with the California State Controller’s office. Employed as Investigator/Auditor and Expert of Record by **Plaintiff’s Counsel, James Barone, Esq.**