

# Cases of Negligent Hiring

**How the consequences of failing to perform a background check on potential employees can be devastating to the workplace**

**Many hiring managers cite the cost of pre-employment background checks as the as the main reason for not implementing safe hiring practices into their human resource programs.**

In reality, the initial cost of ordering a background check for a potential hire is minimal when compared with negligent hiring ramifications such as: damages awarded in lawsuits, loss of assets due to employee theft, workplace violence, and financial dishonesty.

There are many cases where companies have failed to perform background checks on potential hires, resulting in liability when the employee they hired behaved inappropriately or where criminal activity took place.

## **Cases of Negligent hiring**

An applicant was being considered for a High School coaching position. If a background check had been performed the school would have learned that their applicant had a prior felony conviction along with several drug convictions. The applicant was hired anyway, and was later found to have had sexual relations with an underage student that lasted for four years and only ended when the student then became pregnant. The school was obligated to pay \$700,000 in damages due to negligence.

In another case, an Apartment Complex hired an individual for a maintenance position, which included master key access to all apartments on the grounds. Had a background check been ordered the employer would have been informed about the prior convictions the applicant possessed for rape, armed robbery, burglary, and the outstanding warrant for stolen checks. In the end the court awarded damages to be paid in the amount of \$15 million dollars for negligence when the maintenance worker strangled a 20 year old tenant.

In a similar case, an individual was hired to fulfill a Handyman position for an apartment complex with prior conviction for rape of a 9 year old girl. The Handyman was later convicted of sexually molesting and murdering a 5 year-old girl living in the apartment complex. The complex was obligated to pay over \$4 million dollars in damages to the family due to failure to perform a background check on the applicant.

In a case involving the elderly, an individual was hired for a contracted Nurse's assistant position for home health care. A background check on this person would have revealed a prior conviction for throwing a brick into a store front. The judge in the case recommended mental health counseling for treatment of the individual. In the new position the individual proceeded to rob the home of an Alzheimer's patient while also killing the patient's wife by stabbing her more than 70 times and leaving her to bleed to death. The company was found to be liable for 40% of over \$40 million dollars in damages paid for failing to perform a background check.

## **Peace of Mind**

There are dozens of examples of the high cost of negligent hiring. While not all offenders return to their previous patterns of criminal behavior, the possibility of recidivism is enough to recognize the need to check applicant history before hire. Statistics from the US Department of Justice show that 67.5% of inmates released in 1994 were re-arrested within 3 years for committing another crime.

**The simple act of ordering a thorough background check can minimize the risks of criminal behavior in the workplace and reduce the repercussions of negligent hiring to the organization.**

**In the end, a background check pays for itself.**