

Negligent Security Claims: What Every Biz Owner Should Know

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A person walks into your business.

Chances are, this person is a well-meaning patron. However, if they intentionally harm, or commit a crime against another patron, your business could be liable for negligent security.

These claims constitute a significant portion of premises liability matters, and arise where a patron is injured as a result of criminal or intentional acts by a third party.

As with any premises liability matter, defending against these claims can be time consuming and expensive. You should understand how they arise and factors that go into defending against them.

The most common negligent security scenario involves a physical altercation between customers, although more serious situations could include a violent crime. The common factor is these situations can arise quickly without warning.

Liability in a negligent security claim hinges on foreseeability. Florida law does not demand that a business guarantee patrons' safety — only that it prevent against reasonably foreseeable incidents. Foreseeability is determined from a business's internal policies and similar incidents that have occurred.

It is critical that a business has policies and procedures in place to protect against security-related incidents. It also is crucial that

employees are trained adequately and policies are enforced.

Because a person has four years to file a lawsuit for negligent security, it is crucial for business owners who become aware of a possible claim to maintain records concerning the underlying situation, including:

- A list of employees and eyewitnesses with possible knowledge of the situation
- Documents highlighting safety policies in effect at the time
- Documents showing employees were trained on policies
- Written statements from employees and eyewitnesses

These items are important due to the potential time lapse between an incident and the filing of a claim. Often, months or years go by before a person makes a claim. By that time, the business owner and employees may have forgotten details surrounding an incident, or witnesses and critical information may be lost. Producing records and witnesses to show an incident was not reasonably foreseeable is essential.

Along with internal policies, a claimant will look to similar incidents to prove foreseeability, including those on the premises and in surrounding areas. Therefore, familiarity with criminal activity in your area is important.

Many businesses adopt programs to promote interaction between employees and law

enforcement, including regular communications with officers who routinely patrol the area, or providing incentives to officers to frequent your business to deter criminal activity.

In most Florida counties, the standard of admissibility is limited to substantially similar incidents within a reasonable geographic proximity. The courts within the Fifth District Court of Appeals, including Orange County, apply a less stringent standard, allowing the introduction of a wider range of incidents across

a larger area. This makes it easier for an injured person to argue the incident was foreseeable. Therefore, it is even more critical for businesses in local counties to have and enforce their own policies and procedures.



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