

Petition

Via Fax

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Mall Rape Victim Recovers \$1.13 Million

Just over a year ago “Jane Doe” was raped inside the store she managed at a popular factory outlet mall. The assault could not have been a huge surprise to the mall owner, McArthur/Glen Realty. That is because since Lakeside Marketplace in Kenosha, Wisconsin opened, its owner systematically reduced security to the point where, at the time of the crime, the mall was completely unprotected.

The mall originally had full-time security. Shortly after management cut back its security, outraged tenants and employees presented a petition demanding that security be restored. The petition, like the pleas and requests that followed over the next five years, went unheeded.

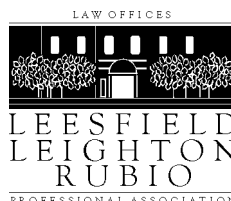
Unheeded that is until “Jane Doe’s” rape and subsequent lawsuit. In representing “Jane”, **Leesfield Leighton & Rubio** partner John Leighton argued in Wisconsin state court that McArthur/Glen owed a duty to provide reasonable security and failed to meet even the minimal standards it set for itself by having a security guard on the premises during business hours. “It’s ridiculous to believe they had no idea”, said Leighton. “Between the petitions, letters, evaluations and pleas, there is nothing more that could have been done to alert this corporation short of hitting them over the head.”

Leighton, well experienced in the area of inadequate premises security, found a history of security deficits, a total lack of care for tenant and customer safety, and no corporate policies or procedures for premises security. “It was shocking to see what little care was put into security by such a large mall operator,” said Leighton. The \$1.13 million settlement represents one of Wisconsin’s largest recoveries for a premises security rape.



Security Sites on the World Wide Web

- Security Management Online:
<http://www.securitymanagement.com/asismore.htm>
- Security Magazine: <http://www.secmag.com>
- FBI Home page: <http://www.fbi.gov>
- CopNet: <http://police.sas.ab.ca>
- Crime in America Network:
<http://www.usa.net/uclr/news>
- Int'l Society of Crime Prevention Practitioners:
<http://ourworld.compuserve.com/homepages/iscpp>
- Traveler's Guide to the safest hotels:
<http://www.protect-mgmt.com/expert/hotels>





Checklist for Identifying Inadequate Security Cases:

- Assaultive crime on an innocent victim (usually a stranger to the criminal)
- Crime committed on commercial premises (which obtains some benefit from having the public there)

Examples:

mall/shopping center
 hotel/motel
 bank/ATM
 school/college
 convenience store/gas station
 condominium/apartment

- History of criminal activity on premises or area; foreseeability may also be demonstrated by the premises owner having acknowledged a need for security
- Failure to take reasonable measures to protect users of the property: lack of security guards, inadequate lighting, defective property design, lack of security devices (CCTV, alarms, mirrors)

Florida Courts in Conflict over Premises Security Cases

Florida's Third District Court of Appeal has dealt a blow to victims rights in premises security cases by holding that defendants sued for negligence may place on the verdict form the criminal perpetrator in order to allow the jury apportion fault.

In *Stellas v. Alamo Rent A Car*, 1996 WL 267911 (Fla. 3d DCA May 22, 1996), the divided court concluded that Florida's tort reform act which modified joint and several liability allowed the negligent and intentional conduct to be compared. This opinion directly conflicts with the Fourth District's opinion in *Slawson v. Fast Food Enterprises*, 21 Fla. L. Weekly D846 (Fla. 4th DCA April 10, 1996), which only a month earlier had held that such fault cannot be compared. Just two weeks ago the First District sided with the *Slawson* court. *Wal-Mart Stores v. McDonald*, 1996 WL 312805 (Fla. 1st DCA June 11, 1996).

The *Stellas* court departs from the logic adopted by most U.S. courts who have addressed the issue. Most courts have reasoned that since the basis for negligence liability is the failure to protect someone

from a known harm, the negligent tortfeasor cannot escape liability by blaming a third party for the harm it had a duty to protect the plaintiff from.

The *Stellas/Slawson* issue will ultimately be determined by the Florida Supreme Court. Until then a great deal of uncertainty will cloud the issue of liability for violent criminal acts.

LLR's Leighton Chairs Security Program

LLR's John Leighton will chair for ATLA's National College of Advocacy joint program on "Premises Liability: Inadequate Security and Violent Crimes" to take place this February in Las Vegas.



Victims Rights Recognized By Clinton Administration

Crime has become such a universal problem that it has overtaken the agenda of the White House. In fact, just this month President Clinton unveiled a new victims rights program that would empower the 43 million Americans who are victims of crime each year. The President has suggested that a constitutional amendment might be developed to protect crime victims by assuring that they are informed and present at all critical stages of the criminal case, and have a right to be heard. It would also require authorities to advise the victim if the criminal is about to be released or has escaped.

About Petition:

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