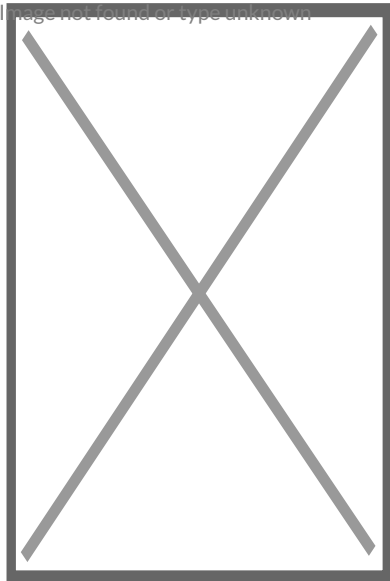


Employers Must Safeguard their Employees and Buildings from Active Shooters



By Lucas Bradley, Bouhan Falligant

Special to Business in Savannah

In a country where mass shootings are becoming more common, the legal system is holding American employers liable for protecting their employees and buildings.

In the most damaging case this year, hundreds of people have joined multiple lawsuits against the MGM Grand and concert organizer Live Nation following the Las Vegas shooting. On Oct. 1, Stephen Paddock shot hundreds at a country music concert, killing 58 and leaving 441 with gunshot wounds. Hundreds more were injured in the ensuing panic.

The victims allege that MGM failed to properly monitor Paddock's activities, train staff members, and employ adequate security measures. They also say that Live Nation failed to provide adequate exits and properly train staff for an emergency. The victims are likely to ask for hundreds of millions of dollars.

Employers must take steps to defend themselves against this kind of massive exposure. Although no plan is foolproof, businesses should (1) monitor employee/patron behavior and (2) safeguard their buildings against possible attack.

Two recent shootings — the Navy Yard shooting and the Aurora, Colo. movie theater shooting — reveal the importance of these principles.

In 2013, 12 people were killed and three were injured in the Navy Yard shooting in Washington D.C. In response, the shooter's employer was sued for negligent hiring and retention. The D.C. District Court allowed the case to proceed because the employer knew that the shooter had mental health problems, managers from the company had spoken to the employee about his “delusions,” and they nevertheless let the employee return to work after that conversation without any medical attention or counseling.

Employers should heed that warning and avoid willful blindness about employees with delusions or mental health issues associated with violence (although employers must likewise respect HIPAA requirements to the extent they apply). Employees with a history of domestic violence charges should also raise a red flag. A business should work to ensure employees can access help and protect its employees and workplace. Ignoring the problem may subject that employer to liability.

The Aurora, Colo. movie theater shooting case further illustrates the importance of protecting your building. That shooting left 12 dead, 58 with gunshot wounds and another dozen injured in the chaos after a lone gunman slipped out of a midnight movie premiere and reentered through the exit door with four guns and tear gas, which he unleashed on an unsuspecting crowd of hundreds.

In a federal case arising from the shooting, the court allowed the case to go to a jury because the movie theater was designed so that a patron could leave the theater, prop the exit door open, and leave himself a way to walk directly back into the theater without passing through the lobby first.

The court held that the movie theater should have been aware of “the grim history of mass shootings and killings that have occurred in more recent times,” and it accordingly could not claim the event was totally unforeseeable.

Savannah businesses face these same realities. They are considered to be “on notice” that our society is rife with mass shootings. And they should think carefully about entrances, exits, and access to their physical facilities. Floorplans must make sense and security is necessary, especially in public venues where hundreds may gather.

Unfortunately, gun violence is common and one incident at your business could subject your company to staggering liability. To protect your company and your employees, you need to develop emergency situation protocols, train your employees accordingly and make sure that your building is secure.

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