



Presidential REPORT

There are two words that have been devastating to many businesses and can cost you millions of dollars: negligent hiring. Today, a growing number of employers are being sued under this phrase because they did not check carefully enough into a potential employee's background.

If an employee injures another worker or a customer, the employer may be held liable – that is why more background checks are being performed. While court decisions vary from state to state, generally, three conditions are needed to sustain a claim of negligent hiring:

- The employee was unsuitable for the position for which he/she was hired. Unsuitable can be interpreted to mean not only that the employee lacks credentials and skills, but that the employee's background makes that person unsuitable.
- The employer knew or should have known of the employee's unsuitability, but hired that person anyway. There is no universal agreement on how much effort or expense constitutes due diligence in attempting to verify suitability.
- The employee was able to inflict injury on the plaintiff as a direct result of the employee's job description. *It was primarily through the employee's job that contact with the victim was established.*

The plaintiff will typically try to prove a case by showing the employer failed to properly investigate the background of its employee prior to making a judgment as to the employee's fitness for the job.

The depth and scope of the pre-employment background screening generally depends on the nature of a firm and the position to be filled. Typically, only the person responsible for hiring personnel performs a cursory screening. While a wise first step and an inexpensive option, this screening process is only useful in verifying information volunteered by the applicant that is public record. Rarely does the personnel professional have the in-house capability to get information on the following:

- Employment history
- Residence verification
- Educational background
- Worker's Compensation record
- Driving record
- Credit history
- State-wide criminal conviction record

The information age also allows for more and more detailed pre-employment background screenings because there exists readily available access to computer databases containing millions of records of personal data. As the cost of searching drops, employers are finding it feasible to conduct pre-employment screenings.

An employee who comes into a job under false pretenses is the wrong person in the wrong job. Falsification suggests a dangerous character defect. The lack of appropriate qualifications may also mean the individual is not competent for the task. Neither is a problem an employer can afford to ignore.

As a member of the Illinois Manufacturers' Association, we invite you to use the pre-employment screening services of Identi-Check, Inc. When you do, it's possible to thoroughly investigate the backgrounds of your prospective employees. Even if you never become involved in a negligent hiring case, the services we provide will be of tremendous value.

