

## *Employer Liability for Negligent Hiring*

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Employers that send their employees into people's homes need to be particularly careful in making sure that the employees they hire are not likely to rob or kill their customers. Employers can be held liable for the actions taken by such employees. Recently, the Fourth District Appellate Court in *Phillips v. TLC Plumbing, Inc.* explained that there are times when an employer will not be liable for the damage caused by such an employee.

TLC Plumbing hired James Joseph Cain in 1999 as a plumber even though TLC learned that Cain was on parole for domestic violence/arson involving his ex-wife. For several years, Cain's employment was apparently without incident. On April 2, 2003, and again on April 24, 2003, TLC sent Cain to Judith Phillips' house. Judith and Cain began seeing each other socially. On or about May 2, 2003, TLC fired Cain for threatening a co-worker, misuse of a company vehicle, and drug and alcohol use.

Judith and Cain continued to see each other for more than two years until Judith ended the relationship and obtained a restraining order against Cain. On May 19, 2005, Cain shot Judith. She died the next day. He was convicted of her murder. Her daughter, Trisha Phillips, sued TLC, asserting that TLC negligently hired and retained Cain which led to him meeting her mother and then later killing her.

The trial court ruled in TLC's favor and Trisha appealed. The appellate court explained that employers can be held liable for negligently hiring a bad employee where the employer could have or should have known that the hiring would lead to the injuries caused by the bad employee. However, the court further explained, in this case, there was no way to predict that Judith would begin dating Cain. Most importantly, TLC did not owe a duty to protect Judith from a former employee more than two years after that former employee had been fired from employment with TLC.

Employers that send their employees into their customers' homes should have some kind of background check done on such employees to make sure that these employees are not likely to harm the employer's customers.