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SPECIAL REPORT

ARE WE OBLIGATED TO PROVIDE SECURITY FOR OUR CUSTOMERS?

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Our business is located in a high crime area. Are we obligated to provide security for our customers?

If our company hires a security guard service, have we assumed an obligation to provide security to anyone who enters our property?

There have been a number of armed robberies in a nearby parking lot. Are we obligated to increase security or advise our customers of the incidents?

INTRODUCTION

Business owners and landlords have a duty to protect patrons and tenants against unreasonable risk of physical harm. In the past, most premises liability cases involved a dangerous physical condition of the property that led to an injury, such as a slippery floor or trip hazard. What about physical conditions that create security hazards?

The purpose of this Special Report is to examine the extent of a business owner's liability for criminal acts that occur on their premises.

According to the FBI's crime report for 2007, there were 856,268 aggravated assaults; 445,034 robberies; 90,133 forcible rapes; and 16,900 murders. If just one of these incidents occurred on your property, would you be liable for failing to provide adequate security?

The general rule in Michigan is that a business owner does not have a duty to protect its customers or invitees from the criminal acts of third persons.[1]

The controlling Michigan Supreme Court case on this issue is *Williams v Cunningham Drug Stores, Inc.*, a 1988 case. In *Williams*, the court discussed the duty owed to a customer or invitee when his or her injury is caused by third parties on the defendant business–owner's premises.

The plaintiff in *Williams*, who was the defendant's customer, was shot during the aftermath of a robbery at the defendant's store, which was located in a known high-crime area. A plainclothes security guard was employed by the store, but he was sick on the day in question. Store personnel called the main office to request a substitute, but a replacement was not sent. While the plaintiff was shopping, an armed robbery occurred. During the resulting confusion and panic, the plaintiff ran out of the store, directly behind the fleeing robber. As the two men were outside, the robber turned and shot the plaintiff. The plaintiff alleged that the defendant had breached its duty to exercise reasonable care for the safety of patrons.

The Michigan Supreme Court analyzed the historical common-law distinction between misfeasance (active misconduct causing injury) and nonfeasance (inaction or the failure to actively protect others from harm). The court again stated the general rule that **absent a legal relationship, no duty obligates one person to aid, rescue, or protect another.** Ultimately, the drugstore owner had no duty to its customers to provide armed, visible security guards to protect against an armed robbery perpetrated by third parties.

As discussed later in this report, the court in *Williams* also noted that there are certain circumstances where a special relationship exists between the plaintiff and the defendant, such as common carrier and passenger, innkeeper and guest, employer and employee, and landlord and tenant, and that relationship. Such a relationship can create additional duties that are not contemplated by the general rule.

Ultimately, the *Williams* case limited the landlord's duty to dangerous conditions of the land and refused to extend that duty to deter or prevent the criminal acts of third parties.

[1] *Williams v Cunningham Drug Stores, Inc*, 429 Mich 495 (1988).

In terms of physical hazards on the premises, a landlord may be held liable for an unreasonable risk of harm caused by a dangerous condition in the common areas in the landlord's control, such as lobbies, hallways, stairways, and elevators. Likewise, a business invitor or merchant may be held liable for injuries resulting from negligent maintenance of the premises or defects in the physical structure of the building. However, **a merchant's duty of reasonable care does not include providing armed, visible security guards to deter criminal acts of third parties.** The court specifically declined to extend a merchant's duty that far in light of the degree of control in a merchant's relationship with invitees, the nature of the harm involved, and the public interest in imposing such a duty.

In numerous cases following *Williams*, courts have broadly applied this rule to a variety of circumstances.

MERCHANT CASES

A merchant is not subject to a higher standard of care simple because their business is in a high crime area.

In *Papadimas v Mykonos Lounge,*[2] the plaintiff-customer was standing at a bar having a drink when another patron intentionally struck him from behind with a handgun. The court held that there was no evidence that the bar owner breached its ordinary duty of care to the injured patron notwithstanding the fact that the lounge was in a high crime area.

A merchant was not liable for crimes that occurred in its parking lot.

In *Read v Meijer Inc.,*[3] a customer was returning to her car which was parked in the merchant's parking lot. Suddenly, she was approached by a man who placed a gun to her ribs, ordered her into the car, directed her to drive out of the lot and down an adjacent dead-end road, searched her purse for money, and then raped her. She sued the store, alleging a failure to provide adequate security in the parking lot. The Court of Appeals dismissed the case and held that the storeowner did not breach any such duty.

[2] 176 Mich App 40 (1989)
[3] 178 Mich App 624 (1989)

A nightclub operator did not have a duty to protect its customer from a shooting by an unknown assailant in their parking lot.

In Williams v. Nevel's-Jarrett Associates, *Inc,*[4] a nightclub customer brought action against its operators to recover for injuries resulting from a gunshot wound by an unknown assailant. The customer alleged that they relied on the operators' assurances that it was a safe place of business. The court said that this allegation lacked the specificity necessary to raise the theory that the operator voluntarily under-took to render security services for the customer's protection and should be held liable for negligent performance of duty. The Court of Appeals held that the operators owed no duty to protect its customers from the shooting.

The presence of security guards alone does not give rise to an implied duty to provide security. Good faith efforts will not be punished.

In *Tame v. A L Damman Co,*[5] Joseph Tame died as a result of a shotgun wound inflicted by an unknown assailant in the south parking lot of a Damman Hardware Store in the city of Detroit. The plaintiff brought this negligence action alleging that Damman, the business invitor, failed to maintain its premises in a safe condition, failed to take reasonable security measures, failed to warn of dangerous conditions existing on the premises, and otherwise failed to act in a reasonable and prudent manner. The plaintiff also sued the uniformed guard service that was present at the time of the incident. The Court of Appeals declined to adopt a policy that imposed liability on a merchant who, in a good faith effort to deter crime, failed to prevent all criminal activity on its premises. Such a policy would penalize merchants who provide some measure of protection, as opposed to merchants who take no such measures.

Merchants are not liable for failing to provide security guards for adjacent parking lots used by customers.

In *Douglas v Elba, Inc*,[6] the plaintiff was sexually assaulted in a nearby parking lot after leaving a bar. The court determined that the bar owner was not obligated to provide security even though a significant portion of bar's patrons parked their vehicles in the lot across the street.

[4] 171 Mich App 119 (1988)
[5] 177 Mich App 453 (1989)
[6] 184 Mich App 160 (1990)

The defendant was not required to protect against the possibility of criminals entering the property through a hole in a boundary fence since the property was open to the public and a person could enter the property by other means.

In *Harkins v Northwest Activity Ctr, Inc*,[7] an invitee who was assaulted by a third party on the landowner's premises brought suit against the land-owner alleging that the landowner was liable for the lack of security occasioned by a hole in their boundary fence that facilitated assailant's entry onto property. The Supreme Court held that landowner's duty to the invitee could not render it liable under the circumstances. A landowner's duty to exercise reasonable care for safety of his invitees was not breached by its allowance of the hole in the boundary fence where the facility was open to public and assailant could have entered by other means. The landowner's duty to invitees did not extend to anticipating and providing protection against criminal acts of third parties.

A merchant, and its security company, that voluntarily takes safety precautions against the general societal problem of crime cannot be sued on the theory that the safety precautions were less effective than they could or should have been.

In *Krass v. Tri-County Security, Inc,*[8] the plaintiff was attacked while returning to his vehicle in the merchant's guarded parking lot. The security guard had directed the decedent to park his car in the lot the evening before. When the decedent returned to his car the next morning, he was shot and killed on the merchant's property. The plaintiffs filed suit against the security company and the property owner, alleging, among other things, that the security company failed to properly protect the decedent or to control the premises. The case was dismissed. The Court of Appeals held that a merchant (and the security company that it hires) who voluntarily takes safety precautions against the general societal problem of crime (here, by hiring the security company to provide parking lot patrol and serve as a deterrent to crime) cannot be sued "on the theory that the safety precautions were less effective then they could or should have been."

[7] 434 Mich 896 (1990)
[8] 233 Mich App 661 (1999)

Despite past criminal activity in the area, the defendant had no duty to protect its patrons from criminal activity or to provide security guards.

In *Jackson v White Castle System, Inc*,[9] a customer was shot in the left leg by an unknown assailant while waiting in line inside a White Castle restaurant. In his complaint, the plaintiff alleged that there was an unruly group of people in the restaurant lobby. They were fighting, pushing, and shouting before the plaintiff's arrival. The plaintiff entered the restaurant and was standing in line waiting for his food when someone carrying a baseball bat shoved and threatened him. The assailant then left the building. The plaintiff's complaint further alleged that when he was leaving the building, the assailant suddenly reentered the restaurant and shot the plaintiff in the leg. The plaintiff claimed that the defendant breached its duty to protect and safeguard its premises and that it knew or should have known of the high propensity for criminal activity in the area. The plaintiff also claimed that the defendant breached its duty to control or eject from the premises the unruly group and failed to notify the police. The court dismissed the lack of security claims having found that there was no duty on the part of the restaurant owner to provide security.

Although the merchant did not owe a duty to provide police protection, it may have owed a duty to summon the police after the commencement of the altercation or to have attempted to eject the criminal patron after he became intoxicated and obviously unruly.

In *Mills v White Castle System, Inc,.*[10] the plaintiff alleged that disruptive patrons had been fighting before the plaintiff entered restaurant; that the plaintiff was assaulted while waiting in line; and that, after the assailant left building and when the plaintiff began to leave, the assailant suddenly returned and shot the plaintiff. These facts were sufficient to state cause of action against the business owner for failure to control or eject unruly patrons or **notify police** when it knew or should have known that other patrons were placed in peril, and the assailant's sudden reentering of business did not render the entire episode so random and instantaneous that the proprietor lacked sufficient notice to exercise reasonable care for its patrons.

A restaurant was under no legal duty to secure its parking lot.

[9] 205 Mich App 137 (1994)
[10] 167 Mich App 202 (1988

In *Jones v Williams,*[11] a restaurant patron, who was wounded in gunshot assault which occurred in a parking lot adjacent to restaurant, brought action against restaurant and security guard service. The plaintiff had gone inside the restaurant to order food for takeout and was returning to his car at approximately the same time as another patron. While the two men were walking to their cars, a car stopped near the plaintiff and one of the car's occupants got out and pulled a shotgun from the trunk of the car. The man with the shotgun then fired at the plaintiff, wounding him, and after returning the shotgun to the trunk, he closed the lid, got back into the car and sped off. The court dismissed the lawsuit and held that even if the defendant did have a contract with a private security guard company to secure the parking lot, there was no legal duty to provide that security.

The defendant bank was not liable for injuries sustained by a customer who was attacked by a third party while using the defendant's automatic teller machine.

In *Fuga v Comerica Bank–Detroit*,[12] a customer sustained injuries when she was attacked by a third party while using the bank's ATM machine. The court determined that the bank was not liable for the lack of security that gave rise to the attack.

A grocery store had no duty to protect the plaintiff against armed robbery in its parking lot. A merchant is ordinarily not liable for a criminal act committed against an invitee in a parking lot owned, controlled, or otherwise used by the merchant.

In *Marr v Yousif*,[13] a delivery person was robbed at gunpoint while delivering merchandise to defendant Spot Lite Market located at 5555 Tireman in the City of Detroit. The store owner refused to allow the plaintiff to use the front entrance but rather required him to use the back alley entrance. Subsequently, the delivery person was robbed at gunpoint in the cargo area of the truck by two men. The plaintiff alleged that the storeowners had a duty to use ordinary care to keep the premises reasonably safe and that the situation could have been avoided if there were a guard on premises, a fence around parking area, or if the clerk had

[11] 160 Mich App 681 (1987)
[12] 202 Mich App 380 (1993)
[13] 167 Mich App 358 (1988)

simply allowed the delivery person to use the front entrance. The court determined that the storeowner had no such duty. The case was dismissed.

A service station had no duty to protect the plaintiff against injuries sustained in an assault by a third party on its premises.

In *Horn v Arco Petroleum Co*,[14] the plaintiff commenced a negligence action to recover damages for injuries allegedly sustained when her vehicle was stolen from a service station in the City of Detroit. The plaintiff alleged that she was a customer and business invitee of the service station at the time of the theft and that the perpetrator forcibly removed her from the vehicle in order to accomplish the theft. The plaintiff sued the property owner alleging that it was negligent in failing to require the tenant/service station to post security guards to protect business invitees and, generally, in failing to keep the premises safe despite knowing of the dangers posed to business invitees when it leased the property to the tenant. The case was dismissed on the grounds that no duty was owed.

A restaurant has no duty to protect a patron against a third party.

Holland v Delaware McDonald's Corp,[15] Mark Holland, a Detroit high school student, was injured while he was in a McDonalds restaurant. The restaurant was full of high school students when a fight broke out and shots were fired. Holland, who was apparently not involved in the fight, was shot in the back as he ran for the door. The plaintiff sued alleging that McDonalds breached its duty to protect Mark Holland from a danger of which defendant was aware based on a shooting that occurred in the same restaurant one year earlier. The court dismissed the case having found no breach of the duty.

History of prior incidents does not create a duty to provide security.

In *MacDonald* v *PKT, Inc,*[16] *the* plaintiff brought an action against Pine Knob Music Theater for injuries suffered during a concert at the defendant's theater as a result of sod being thrown by other concertgoers. She alleged that the defendant was negligent in failing to provide proper security, failing

[14] 170 Mich App 390 (1988)
[15] 171 Mich App 707 (1988)
[16] 464 Mich. 322 (2001)

to stop the performance when it should have known that continuing the performance would incite the crowd, failing to screen the crowd to eliminate intoxicated individuals, and by selling alcoholic beverages.

The court held that a premises holder's sole duty is to respond reasonably to problems that occur on the premises. **Fulfilling the duty to respond reasonably requires only that an invitor make reasonable efforts to contact the police.** The court held that Pine Knob had a duty to use reasonable care to protect their identifiable invitees from the foreseeable criminal acts of third parties. The duty is triggered by specific acts occurring on the premises that pose a risk of imminent and foreseeable harm to an identifiable invitee.

While a merchant is required to take reasonable measures in response to an ongoing situation that is taking place on the premises, there is no obligation to otherwise anticipate the criminal acts of third parties. **A merchant is not obligated to do anything more than reasonably expedite the involvement of the police.**

The court reaffirmed that a **merchant is not required to provide security guards or otherwise resort to self-help in order to deter or quell such occurrences**. The plaintiff's claim for lack of premises security was dismissed.

In fact, the Michigan Supreme Court in *MacDonald* expressly overruled a prior case that indicated that a merchant has a duty to take precautions against the criminal conduct of third persons that may be reasonably anticipated. **According to *MacDonald*, there is no general duty to anticipate and prevent criminal activity even where there have been prior incidents and the site of the injury is a business premises. Any duty is limited to reasonably responding to situations that occur on the premises and that pose a risk of imminent and foreseeable harm to identifiable invitees, and the duty to respond is limited to contacting the police.**

Do you have to comply with a robber's demands to protect customers' safety? Michigan has not yet decided this issue; however, in California the courts have ruled that no such duty exists.

In *Kentucky Fried Chicken of California v Superior Court*[17], the plaintiff sued Kentucky Fried Chicken for medical treatment, lost earnings and emotional distress, alleging that a clerk's stalling actions during a holdup led her to believe she would be shot. However, the court ruled that merchants have no duty to comply with an armed robber's demands in order to protect the safety of store patrons. The California court was somewhat divided which means that future cases may go either way.

EXCEPTIONS TO THE MERCHANT RULE

Premises owners or operators that harbor criminal activity and profit from that activity are liable for a lack of security.

One exception to the general rule of non-liability for the criminal acts of third parties is recognized when the defendant is actually harboring criminal activity and profiting from that activity. In *Wagner v Regency Inn Corp,*[18] the plaintiff had stated a claim against a motel for injuries caused by third parties. The evidence demonstrated that the motel knowingly harbored criminals and criminal activity, including prostitution and drug trafficking. Therefore, the court held that the unique facts of *Wagner* provided an exception to the general rule of no duty.

Refusing access to a telephone to contact the police.

If the customer requests that the merchant allow him or her to use the phone to call the police and the merchant refuses, the merchant may have breached its duty to provide adequate premises security. Such a claim was recognized in *Mills v White Castle Systems Inc*,[19] discussed above.

LANDLORD TENANT CASES

A landlord has more control in his relationship with his tenants than does a merchant in his relationship with his invitees. This special relationship gives rise to a greater duty of care with respect to premises security.

The Michigan Supreme Court has held that a landlord owes a duty to his tenants to protect them from unreasonable risks of harm resulting from the

[17] 14 Ca 4th 814(1997)
[18] 186 Mich App 158 (1990)
[19] 167 Mich App 202 (1988)

foreseeable criminal activities of third parties within the common areas of the landlord's premises. Whether or not the criminal acts were foreseeable is a question of fact for a jury to decide.

A resident was harassed and shot while trying to enter his apartment complex. The security guard laughed at the harassing remarks and stood idle when the resident was assaulted and then shot by non-residents. The resident was awarded a $10,000,000 judgment.

In *McBride v Pinkerton's, Inc,*[20] the plaintiff was a tenant in the defendant's apartment complex. Before he signed the lease, the apartment owner informed the plaintiff that they provided the "extra added feature" of an on-site security guard to maintain security on the premises. The apartment owner further explained that all visitors were required to sign in before entering the building and visitors were not allowed to enter the building unless they entered via the intercom system. The system required visitors to call the tenant in the building whom they were there to see and then the tenant would "buzz" that visitor through the permanently locked entrance and into the building. Unauthorized visitors were denied access to the building first by the intercom and second by the security guard on duty. Enticed by, among other amenities, the security measures in place at the complex, the plaintiff decided to lease an apartment in the building.

On January 27, 1994, just three weeks after he had moved into his apartment, the plaintiff returned home from work and entered the apartment building. While the plaintiff was retrieving his mail, he noticed an unusually large number of people loitering in the lobby of the building. As the plaintiff walked through the lobby to his apartment, someone in the lobby verbally harassed him regarding his physical appearance. The security guard who was on duty witnessed the harassment and took no action in response to this exchange. Rather, the guard laughed along with the others.

Later, the plaintiff returned to his vehicle to collect some personal belongings. When he tried to reenter the building, he discovered that three of the men who were harassing him were now standing in the doorway to the building, blocking his entrance. When the plaintiff asked the men to move, one of the men suddenly shot the plaintiff, rendering him a paraplegic. According to the plaintiff, the security guard was standing on

[20] 1999 WL 33439548 Mich App (1999)

the other side of the doorway and observed the entire verbal exchange as well as the shooting.

At trial, the plaintiff presented evidence that this was not the first instance of criminal activity at the complex, nor was this the first time that a security guard on duty had apparently neglected their duties. The plaintiff was able to show that visitors regularly bypassed the security guard on duty in the lobby; security guards were seen socializing with guests, watching television, and otherwise not performing security functions that were expected of them; and guards commonly were found sleeping on the job, not signing visitors in as required, and allowed visitors to bypass the intercom system. Even worse, the apartment owner had received numerous complaints about the security prior to the shooting.

The court held that a landlord has more control in his relationship with his tenants than does a merchant in his relationship with his invitees. Should a dangerous condition exist in the common areas of a building which tenants must necessarily use, the tenants can voice their complaints to the landlord and the landlord has a duty to address the condition.

In this case, the plaintiff was awarded $10,000,000.

Physical Conditions

Landlords are liable to the extent that foreseeable criminal acts are facilitated by their failure to keep the physical premises under their control reasonably safe (e.g., poor locks, no locks, or poor lighting) or in good repair (e.g., broken locks).

A landlord has a duty to provide adequate lighting and locks.

In *Johnston v. Harris*[21] the plaintiff was an elderly tenant in a 4-unit apartment building located in the Detroit inner city. Returning home, the plaintiff approached the front door. As he reached for the doorknob, the door was jerked open and he was assaulted, struck and robbed by an unknown youth who was lurking in the poorly lighted, unlocked vestibule. The Supreme Court held that the tenant could maintain his lawsuit against the landlord on the theory that the landlord was negligent in creating a

[21] 387 Mich 569 (1972)

condition conducive to criminal assaults by failing to provide adequate lighting and locks.

Dangerous Persons

Landlords may be held liable for unreasonable risks of harm caused by dangerous third persons in the common areas of the premises.

In *Samson v Saginaw Prof'l Bldg, Inc*,[22] a mental health clinic leased space on the fourth floor of a five-story building. Other building tenants voiced concerns to the defendant-owner about their safety on the building stairs and elevators, which were also used by the clinic's patients. However, the defendant-owner took no action. The plaintiff, an employee of a fifth-floor tenant, was attacked in an elevator by a clinic patient. The court held that **the landlord had retained his responsibility for the common areas of the building which are not leased to his tenants. The common areas such as the halls, lobby, stairs, elevators, etc., are leased to no individual tenant and remain the responsibility of the landlord. It is his responsibility to insure that these areas are kept in good repair and reasonably safe for the use of his tenants and invitees.**

The *Samson* case imposes a duty on landlords to investigate and take available preventive measures when their tenants inform them that a possible dangerous condition exists in the common areas of the building.

Landlords have a duty to take some action to protect persons using their parking lot from criminal actions and injury that are foreseeable

In *Aisner v Lafayette Towers*,[23] the plaintiff was robbed and sexually assaulted in the parking lot of the apartment complex while she was on her way to visit a friend who was a tenant in the complex. The plaintiff sued the apartment owner alleging that they breached their duty to keep the premises, including the parking lot, in a reasonably safe condition and, specifically, that the defendants were negligent in failing to provide sufficient lighting and security guards in the area of the parking lot. The complaint further alleged that the defendants knew stringent security measures were required because (1) the apartment building was located in a high crime area, (2) two separate attacks on women had occurred in the

[22] 393 Mich 393 (1975)
[23] 129 Mich App 642 (1983)

immediate vicinity of the apartment building within the five days previous to the incident, and (3), prior to the incident, tenants had held meetings for the purpose of requesting better security measures in and around the building. The Court of Appeals held that the landlord did have a duty and that the jury should decide whether the injury sustained by the plaintiff was foreseeable.

A landlord has the duty to protect tenants from foreseeable criminal activities of third parties in common areas of landlord's premises.

In *Holland v Liedel*,[24] the plaintiff sued her landlord for injuries she suffered when she was abducted from the underground parking lot of an apartment building owned by the defendant and in which she rented an apartment. Access to the underground parking ramp required the use of card keys given to tenants with parking spots. The card keys opened the door, which automatically closed behind each car entering the ramp. The parking ramp had previously been patrolled by a security guard for five hours each evening. When the guard died, the defendant replaced the guard service with a camera monitoring system that monitored the parking ramp doors. The plaintiff alleged that the defendant failed to provide reasonable security for the tenants, including failing to replace the parking lot security guard when that employee died and failing to monitor a subsequently installed electronic surveillance system. The court held that the landlord did have a duty to provide security and that a jury should decide whether or not that duty was breached.

A landlord has a duty to take reasonable precautions to protect tenants and their guests from foreseeable criminal activity in the common areas inside the premises. This duty does not encompass an obligation to make open parking lots safer than the adjacent public streets.

In *Stanley v Town Square Coop*,[25] the court found that a landlord has a duty to take reasonable precautions to protect tenants and their guests from foreseeable criminal activity in the common areas inside the premises. However, this duty does not encompass an obligation to make open parking lots safer than the adjacent public streets.

[24] 197 Mich App 60 (1992)
[25] 203 Mich App 143 (1993)

A landlord has no duty to protect a tenant's visitor from an assault by the tenant.

In *Shoulders v Record Realty Co,*[26] an apartment visitor who was criminally assaulted filed suit against the tenant/ assailant and landlord. The court dismissed the case holding that a landlord has no duty to protect a tenant's visitor from an assault by the tenant if the assault occurs in an area over which the tenant has exclusive possession and control, the injured visitor has no special relationship with the landlord, and the landlord's obligation to provide a premises reasonably safe and fit for habitation does not require it to protect a visitor to a tenant's apartment from the tenant. This principle is true even if the tenant has a reputation for violence.

A landlord had no duty to protect third parties from attacks by his tenants' dogs that took place off the leased premises where the dog was acquired after the premises were leased.

In *Feister v Bosack*,[27] an individual injured by a tenant's dog brought action against the tenant and the landlord. The court held that a landlord has no duty to protect third parties from injuries inflicted by tenants' dogs that occur away from the leased premises where the dog is acquired after the premises were leased.

In *Braun v York Props,*[28] a twelve-year-old child was seriously injured when bitten by his neighbors' dog while playing inside neighbors' mobile home. The child's parents and brother brought action against the property landlord for failure to enforce the pet regulations. The court held that the landlord owed no duty to a third party for the dog bite by tenant's dog for landlord's failure to enforce its rules and regulations restricting size of pets in its mobile home park.

Although there are a number of other special relationships that may give rise to an increased duty of security, those cases have not yet been decided. Surely, a case could be made that a daycare facility, a foster care home, a rehabilitation center, a medical facility, or even an employer has an increase duty to provide security for certain individuals. However, for now, these circumstances remain undecided.

[26] 185 Mich App 606 (1990)
[27] 198 Mich App 19 (1993)
[28] 230 Mich App 138 (1998)

VOLUNTARY ASSUMPTION OF THE DUTY

A merchant's advertising that promised free, ample, lighted and guarded parking, did not constitute a guarantee of patron's personal safety, for purpose of determining owner's liability to patron who was shot in parking lot. The advertisement only created a duty to provide security, which it did, but did not obligate the merchant to make the premises free from crime.

In *Scott v Harper Recreation, Inc,*[29] the plaintiff was shot while in the parking lot of a night club that had advertised a lighted and guarded parking area. The defendant advertised with written fliers that included a representation that it provided "Free Ample Lighted Security Parking." The plaintiff left Club UBQ after midnight and walked to his car in the club parking lot. At his car, he was surprised by an unidentified gunman, who shot him six times. The plaintiff suffered serious facial injuries, including the loss of an eye. The defendant's advertisements were intended to induce attendance by the general public, "without fear of criminal activity." Because of the advertisements, the plaintiff believed the parking area to be secure and thus parked in the lot. He "reasonably believed himself safe from criminal activity" while in the lot, and the advertisements caused him to relax his normal vigilance for criminal activity. As a result, his assailant was able to surprise him at his car. The lot was lighted and fenced, but the defendant failed to provide security personnel.

The plaintiff alleged that the defendant's advertising was intended to bring more patrons to Club UBQ "by eliminating the fear of criminal activity." He proposed that the advertisements constituted a voluntary undertaking to provide a safe parking lot (or, as he also stated, "to exercise reasonable care" to provide a safe lot). The defendant was said to have breached this voluntarily assumed responsibility by failing to provide adequate security to make the lot safe, and by allowing an armed assailant to be present in the lot.

The Court of Appeals reversed a summary disposition granted in favor of the defendant, who owned the nightclub where the plaintiff was assaulted in the parking lot by an unknown assailant.

[29] 192 Mich App 137 (1991)

CONCLUSION

The general rule in Michigan is that a business owner is not obligated to provide security for its customers. There are exceptions to the rule where a special relationship exists, such as that of a landlord and tenant. Business owners can be liable for premises security if certain security measures or benefits were expressly solicited yet not provided. We encourage all individuals to review their premises security policies and procedures and increase their limits of liability coverage in order to reflect an increased exposure.