



Premises & Retailer Litigation

Our Premises Liability Lawyers have established special programs to assist premises clients with bodily injury, security and access litigation. In negligence bodily injury claims, the firm offers an early resolution program which usually leads to beneficial low cost settlement promptly after assignment

After screening suspicious claims from the early resolution program, we invite plaintiff counsel to produce their clients at the scenes of alleged accidents for privileged interviews from which we learn the essential facts determining case value from the plaintiff perspective. 95 per cent of plaintiff attorneys allow us to interview their clients, and 66 per cent of those interviewed will settle their claims early and reasonably within 45 days of assignment. The entire process usually consumes less than five hours of attorney time. If an immediate settlement does not occur, the approach benefits the client because we then take more efficient and focused discovery.

The program is flexible and often works with agreed upon limited discovery where necessary, as may be required to obtain a plaintiff's medical and earnings records, or to have a plaintiff examined by a physician. Part of the success of the program is attributable to our representation to plaintiff counsel that if the case does not settle after early and informal efforts, it will probably try.

The firm also has wide experience in successfully defending claims that a premises defendant negligently caused a third party criminal assault due to inadequate physical or human safeguards. Our work usually begins with tendering our client's defense to potentially responsible insurers and third parties. Often, such claims can also be defeated on motions for summary judgment by demonstrating (1) that the client had no actual or constructive prior notice of the likelihood of the type of criminal attack at issue, or (2) that the absence of enhanced security measures proposed by the plaintiff (e.g. brighter lights, more security guards) can not be shown to have caused the

The firm has also successfully handled diverse claims made by those who assert that they were denied equal or adequate access or accommodations to premises. We have successfully defended claims under the Americans with Disabilities Act, under state and federal civil rights laws, and under a line of California cases that have held that signature gatherers and others wishing to engage in expressive activity may use private commercial premises to approach and engage the public subject to reasonable regulation by the premises owners and managers. Whatever the type of "access" claim may be, we recognize that such cases often require close coordination with client personnel and public relations staff to achieve the most desirable results.

Finally, we have defended hundreds of claims for false arrest, malicious prosecution, defamation, excess force and similar torts, usually arising out of defendant reports to the police of possible criminal conduct, ejection, private arrest, and related conduct. Here, we usually recommend an immediate investigation of the underlying incident followed by an equally immediate deposition of the plaintiff thereafter. Although defendant conduct in occasional cases can be problematic,

our experience is that the vast majority of these claims are unfounded, and that our clients' positions are made stronger by deposing plaintiffs before they depose our personnel.

For further information on these programs or other premises liability issues, contact John N. Dahlberg at our San Francisco office or email John at jnd@dillinghammurphy.com. John has handled such claims for almost 20 years, and brings seven years experience as a police officer to them as well.

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