Wrongful Death

SERVICES
Premises Liability

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Boyle | Shaughnessy Law shareholder Timothy R. Scannell obtained a defense verdict after a 14-day trial in a wrongful death case in the Worcester Superior Court. Plaintiffs alleged that the decedent was assaulted by intoxicated and rowdy patrons of a 24-hour restaurant moments after the restaurant's security guard had finished his shift for the evening. Attorney Scannell represented Realty Resources Hospitality, the operator of the restaurant franchise; the firm also represented Denny's Inc., the corporate parent company who owned the premises. Plaintiffs alleged that the security measures taken by the restaurant were inadequate, and deviated from the industry standards of care.

The plaintiffs alleged that the restaurant had failed to properly train and staff the restaurant to comply with industry standards, and offered the testimony of David Hayes, Ph.D. Dr. Hayes testified that the restaurant's written security policies were substandard, and that the corporate trainers employed by the defendant failed to properly advise the restaurant employees about the proper means to deal with disruptive guests. Upon cross-examination, Dr. Hayes conceded that it was nearly impossible to craft a policy that could guarantee success in diffusing all confrontations. Dr. Hayes was also confronted by Boyle | Shaughnessy Law defense counsel with his own publication, a restaurant manager's "manual" that contained no references to disruptive guest policies or guidelines for the prevention of violence.

The plaintiffs also offered the testimony of Norman Bates, J.D., who testified that a history of prior crime at the restaurant necessitated that the restaurant operators should have kept the security officer on site for longer hours. Attorney Bates was challenged by Boyle | Shaughnessy Law defense counsel on the basis that there had been no physical confrontations reported in the five years prior to the subject assault during the time period that Attorney Bates had suggested that extra security was necessary.

Attorneys Scannell defended liability and causation. As far as liability, the defense was able to show that the waitresses who were on the premises on the night of the assault acted reasonably, and could not have predicted the happening of the assault. Moreover, the defendants proved that the plaintiff decedent and members of his party were likely the instigators of the physical confrontation. With regard to causation, the Boyle | Shaughnessy Law defense attorneys obtained concessions from both of the plaintiff's experts that there were no true industry standards for security measures that could prevent all physical confrontations. Boyle | Shaughnessy Law defense attorneys Scannell and also argued that the plaintiff's true cause of death was a cardiac arrhythmia brought on by stress, which was ultimately due to a myriad of health problems that the plaintiff had prior to his death.

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After a 14-day trial, the jury returned a verdict in favor of the defendants, finding that there was no negligence on the part of either defendant.

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