

Crime Victim's Guide To Recovering Damages For Your Injuries

by
DANIEL F. MONAHAN
TRIAL LAWYER

If you are the victim of a crime in Pennsylvania, you may be entitled to recover money damages. And you may not even know it! *Here's how.*



MONAHAN

Law Practice, P.C.

CRIME VICTIM'S GUIDE TO RECOVERING DAMAGES FOR YOUR INJURIES

If you are the victim of a crime in Pennsylvania, you may be entitled to recover thousands or even millions of dollars. And you may not even know it! Here's how.

Dear Pennsylvania Crime Victim:

After a crime has been committed, victims often assume there's nowhere to turn for help. But in many cases, they're wrong.

Hi. My name is Dan Monahan. I represent victims who have been injured during the commission of a crime in Pennsylvania.

I assembled the following information to help you understand your rights as a crime victim — and the recourse you have against parties responsible for your injuries.

As a Pennsylvania crime victim, you have a number of sources against whom you can file a civil suit. For example, you can sue the perpetrators, individuals who helped the perpetrators, or individuals or organizations whose negligence contributed to the commission of the crime, called third parties.

To start, you can sue the offenders who committed the crime. What's more, you can sue them even if they were found "not guilty" by a Pennsylvania criminal court. Likewise, you can sue anyone who helped them commit the crime, such as lookouts, drivers, and so forth.

Also, in some civil cases, a third-party defendant may be legally liable. Third-party defendants are not the persons who committed the crime. Instead, they are people or companies who may have contributed to or made it easier for the criminal offenders.

Since the criminal's conduct is usually intentional, he would not be covered by his own insurance, such as a homeowner's policy. But in the case of third parties, the basis for the lawsuit is some form of negligence. Third parties in Pennsylvania usually have insurance and their policies will pay if they are found legally liable.

This is why, if you're the victim of a crime in Pennsylvania, it's important that you not give up. You may have several avenues by which you can collect large amounts of money for your property, injuries, lost wages, pain and suffering.

HERE IS INFORMATION ABOUT MY BACKGROUND AND EXPERIENCE

Overview: I am a trial lawyer based in Exton, Pennsylvania. I have practiced law for 32 years and limit my practice to representing victims who have been injured — or families of victims who have died — as the result of an accidental injury or during the commission of a crime.

Carrying on the family tradition in law enforcement for over 120 years:

My Great Grandfather... was a New York City police officer, joining the police force in the 1880s.

My Grandfather... was a New York City detective on the Manhattan waterfront. Later, he and his brother — who was also a New York City Detective and who worked on the Lindbergh kidnapping — headed security in Rockefeller Center.

My Father... was an FBI agent under J. Edgar Hoover during the McCarthy era. He was involved in internal security in San Francisco, Los Angeles and New York City.

My Brother... was a detective for the Wilmington police force where he worked on sex crimes and was shot in a gun battle during a bank robbery. (My brother survived; the robber did not.) Later, my brother was Director of Security for the Winterthur Museum in Greenville, Delaware, the foremost museum for early American furniture started by one of the DuPonts. He is currently president of a private detective agency, Monahan Investigations.

National Crime Victim Bar Association: I am proud to be the only member based in Chester County, and the only member actively serving crime victims in Berks, York, Lehigh, Lebanon, Schuylkill, Northumberland, Northampton and Dauphin Counties.

Board Certified Trial Lawyer: I am a Fellow of the Academy of Advocacy, is a member of the Pennsylvania and American Trial Lawyers Association. In addition, I recently won recognition as a Board Certified Civil Trial Advocate by the National Board of Trial Advocacy, an organization accredited by the American Bar Association and the only certification organization recognized by the Pennsylvania Supreme Court.

“Excellent” Rating: The respected International Law Directory, Martindale-Hubbell, reviewed confidential opinions from members of the Bar and awarded me a rating of “excellent.” It described me as having “high to very high” legal ability and “unquestionable ethics.”

Court Admissions: I am admitted to practice before all Courts of the State of Pennsylvania including the Supreme Court of Pennsylvania, the Federal District Court and the Federal Circuit Court of Appeals.

Experience Representing Both Sides: During my legal career, I have represented plaintiffs and defendants in cases involving crime victims. For example, in these interesting cases, I represented the:

Plaintiff in a claim against the Sports Arena in Philadelphia. The plaintiff suffered dental injuries during a fight where we alleged the defendant failed to provide adequate security. The case settled during trial in the plaintiff’s favor for \$50,000.

Defendant John Wanamaker's Department Store in a false arrest case on appeal. The case is a reported Superior Court decision holding that punitive damages (intended to punish the defendant) can be recovered even when the complaint is amended during trial.

Defendant Philadelphia ice skating rink, which the plaintiff alleged lacked security. The jury awarded the plaintiff \$1,200,000.

Defendant gun dealer whose handgun was sold to a former psychiatric patient who used only a Sears credit card for identification. The case eventually settled for an undisclosed amount.

Defendant shotgun manufacturer whose gun allegedly lacked a proper safety device and injured a 15-year old who was involved in horseplay with a friend.

Read What My Clients Say

“You can’t do better than Dan Monahan. He’s a fine man and he treated me fairly.”

L. Dean Blackburn; Parkesburg, Pennsylvania

“Dan is very caring, thorough, outgoing and honest — a down-to-earth lawyer.”

Sarah Saul; Sinking Spring, Pennsylvania

“Dan is a gentleman, a fine attorney, and I would certainly refer my friends to him.”

George Decowsky; West Chester, Pennsylvania

“Dan did an outstanding job for us. He definitely got the job done. Dan is awesome.”

Carol Younce; Conowingo, Maryland

“Dan is terrific to work with, a good listener, and puts his clients at ease.”

Herman and Miriam Chidekel; Glen Mills, Pennsylvania

“Dan is professional and pays great attention to detail. I absolutely recommend him.”

L. Steven Moore; Downingtown, Pennsylvania

“Dan is the most excellent lawyer I could ever recommend.”

Lynette Moore; Nottingham, Pennsylvania



“So ... if you have been injured — or if a family member has died — from any crime-related injury in Pennsylvania, please don’t hesitate to call me. I will gladly speak with you over the telephone or in person, whichever you prefer. And your initial visit is always free. You’re welcome to call me anytime. I promise I’ll do everything I can to help you.” — Dan

DANIEL F. MONAHAN, ESQUIRE
Trial Lawyer

Monahan Law Office P.C.
300 North Pottstown Pike, Suite 210 • Exton, Pennsylvania 19341
Dmonahan@monahanlawpractice.com

www.MonahanLawPractice.com
Local Telephone 610-363-3888 • Facsimile 610-594-9556

Toll Free 1-866-307-3888

YOUR RIGHTS AS A VICTIM OF CRIME

YOU MAY NOT KNOW THIS, BUT...

Every Pennsylvania crime victim has the right to file a civil lawsuit to recover damages from the perpetrator or other parties whose unreasonable conduct resulted in a crime.

Every year, the number of crime victims in America reaches nearly 30,000,000.

Often, the consequences of crime extend far beyond the criminal act. In many cases, crime victims are left with expenses for medical care, surgeries, physical rehabilitation, counseling, lost wages and property damage. In the United States, crime costs our society roughly \$450 billion every year.

Fortunately, you may have several ways to recover money for your injuries and expenses, including:

RESTITUTION

A Pennsylvania criminal court may order a perpetrator to reimburse certain expenses incurred by you, your survivors, or persons who have become responsible for your maintenance and support as a result of a crime. Unfortunately, even when a Pennsylvania court orders restitution, it is often not collected. This lack of enforcement, combined with limits on the type of damages that may be included in a restitution order, often result in restitution falling far short of meeting your needs.

PENNSYLVANIA STATE CRIME VICTIM COMPENSATION

Compensation may be available from Pennsylvania's crime victim compensation fund. These funds are designed to reimburse you for certain losses and expenses resulting from the crime, such as

funeral expenses, medical bills, counseling fees, lost wages, and other out-of-pocket costs you incur. The amount of compensation may be reduced by amounts that you have received from insurance or other sources.

In addition, Pennsylvania state law provides limits on how much money can be given for an individual crime or a particular type of loss. There are also other restrictions on eligibility for crime victim compensation.

CIVIL LAWSUIT

Often, restitution and crime-victim compensation do not cover your full economic losses, and neither source pays anything for hard-to-quantify damages such as pain and suffering. A civil lawsuit may provide you with more complete compensation.

WHY SHOULD YOU FILE A CIVIL LAWSUIT?

YOU MAY BENEFIT FROM FILING A CIVIL ACTION IN PENNSYLVANIA AS FOLLOWS:

Control of the Case. You have greater control in a civil suit than in a criminal case because (1) you are a party to the civil case, (2) you cannot be excluded from the courtroom, and (3) you have final approval of settlement proposals.

Compensation. A civil action can provide you with greater compensation for the monetary damages you suffered, such as medical expenses and lost income. Also, a civil action can compensate you for the emotional damage.

Justice and Accountability. A civil suit can hold offenders directly accountable to you. These suits give you your “day in court,” regardless of whether there was a criminal conviction or even a prosecution.

Crime Prevention. In addition to suing perpetrators, you can often sue other responsible parties. Civil actions provide economic incentives for crime prevention. Often, businesses such as hotels, apartments, and shopping centers fail to enact proper security measures because they view such expenses as unnecessary. When the courts hold businesses accountable for lapses in safety, proper security becomes cheaper than the cost of defending lawsuits. Crime victims’ civil suits have resulted in increased security protection in public places, better oversight and supervision of daycare facilities, and countless other improvements.

CRIMINAL VERSUS CIVIL JUSTICE

A major difference between the Pennsylvania criminal and civil court systems is that in a civil case, you — the crime victim — control important decisions in your case. You decide whether to sue. You decide whether to accept a settlement offer. You decide whether to go to trial.

THE PENNSYLVANIA CRIMINAL JUSTICE SYSTEM

The criminal justice process begins after a crime has been committed and reported to law enforcement. If an arrest has been made and charges have been filed, the offender may be prosecuted. In a criminal prosecution, the crime is considered “a crime against the State of Pennsylvania.” Your role is primarily as a witness for the prosecution.

Although the prosecuting attorney may be very helpful to you and your family, the prosecutor represents not your interests, but the interests of the State of Pennsylvania. The criminal justice process judges the guilt or innocence of accused offenders, and when offenders are found guilty, works to punish or rehabilitate them.

THE PENNSYLVANIA CIVIL JUSTICE SYSTEM

The civil justice system does not attempt to determine the innocence or guilt of an offender. Also, offenders are not put in prison. Instead, Pennsylvania civil courts try to determine whether an offender or a third party is liable for the injuries you suffered as a result of the crime. A civil court’s finding of liability usually means that the defendant must pay damages to you or your family.

The Pennsylvania civil justice system can provide victims with monetary resources necessary to rebuild their lives. In addition,

the civil justice system often provides victims and their families with a sense of justice that criminal courts fail to provide. Rather than holding defendants accountable for their “crimes against the State of Pennsylvania,” the civil justice system holds defendants directly accountable to their victims.

BURDEN OF PROOF

In the Pennsylvania civil justice system, liability must be proven by a preponderance of the evidence, which means only that one side’s evidence is more persuasive than the other’s. In other words, the plaintiff must prove there is at least a fifty-one percent chance that the defendant committed all the elements of the particular crime. This standard is far lower than the “proof beyond a reasonable doubt” required for a criminal court conviction. Therefore, it is sometimes possible to find the defendant liable in a civil case even though the verdict in the Pennsylvania criminal case was “not guilty.” A civil case can also be successful even if the offender was never prosecuted.

A good example of this principle is the O.J. Simpson case. Simpson was prosecuted for the murder of his former wife, Nicole Brown, and her friend, Ron Goldman. In 1995, the jury in the criminal case found Simpson “not guilty” of the murders. Despite Simpson’s acquittal, the families of Nicole Brown and Ron Goldman filed a civil wrongful death lawsuit against Simpson. In 1997, a civil trial was held and Simpson was found liable for the deaths of Brown and Goldman. The jury in the civil case awarded the victims’ families \$33.5 million in damages. While a criminal conviction may increase the chances of a perpetrator being held civilly liable, it is not a requirement for filing a civil lawsuit.

IN A PENNSYLVANIA CRIMINAL CASE...

- The goal is to hold the defendant accountable to the State of Pennsylvania.
- Pennsylvania State prosecutes and controls the case.
- The victim is only a witness. Although the victim may have rights to participate in the criminal justice process, the victim does not have the right to direct the prosecution of the case or to veto the prosecutor's decisions.
- The State of Pennsylvania must prove that the perpetrator is guilty "beyond a reasonable doubt."
- The perpetrator is presumed innocent until proven guilty.
- If a perpetrator is found guilty in a criminal court, the perpetrator is subject to punishment, such as probation or jail, and is held accountable to the State. The Pennsylvania crime victim will not get any money unless the court orders the defendant to pay restitution for the victim's out-of-pocket expenses. The court cannot order restitution for non-economic damages.
- If the perpetrator is found not guilty, Pennsylvania State cannot initiate a second prosecution.

CIVIL LAWSUITS

IN A PENNSYLVANIA CIVIL LAWSUIT...

- The goal is to hold the defendant accountable to the crime victim.
- The crime victim initiates and controls the case.
- The crime victim is a party, and as such, is entitled to all important information relating to the case, and can make decisions about the direction of the case, such as settlement of the claim.
- The crime victim must prove that it is more likely than not that the perpetrator is liable.
- The civil system makes no such presumption. The victim and the perpetrator appear as equals.
- If the perpetrator is found liable in a Pennsylvania civil court, the perpetrator owes an obligation to the crime victim, such as money to compensate the victim for medical and therapy expenses, psychological damage, damage to family relationships, and lost wages. A Pennsylvania civil court can order the perpetrator to pay for non-economic damages, such as pain and suffering, and can also order punitive damages.
- The crime victim can sue the perpetrator in a civil court regardless of whether the perpetrator has been found guilty in a criminal prosecution.

PARTIES IN A PENNSYLVANIA CIVIL SUIT

PLAINTIFFS

The main parties in a civil suit are called plaintiffs and defendants. Plaintiffs are the individuals who file the lawsuit. They control the action, are entitled to all information relating to the case, and make decisions, such as when to settle. The plaintiff in a Pennsylvania civil suit can be the crime victim, survivors of the crime victim, or persons responsible for the crime victim.

FAMILY MEMBERS

Family members who might bring a civil suit include the parents, spouse, children, or siblings of the crime victim.

DEFENDANTS

The defendants are the parties against whom civil actions are brought. The defendants in a Pennsylvania civil suit can be the perpetrators, persons who helped the perpetrators, or individuals or organizations whose negligence has contributed to the commission of the crime (third parties).

OFFENDERS

The offenders are the individuals who committed the original offense, regardless of whether they were found guilty by a Pennsylvania criminal court.

THIRD PARTIES

In some civil cases, a “third-party” defendant may be held liable. Third-party defendants are not the persons who actually committed the crimes, but instead are those parties who may have contributed to or facilitated the crimes. Examples of possible third-party defendants in a Pennsylvania crime victim’s case include:

Landlords who failed to provide adequate security, such as locks on doors and windows and adequate lighting;

Colleges that failed to provide adequate security for students or failed to notify students of campus assaults, leaving students at risk;

Shopping malls that did not hire security guards or take other necessary measures, even when it was likely that criminals would attack customers;

People who allowed children access to firearms or other dangerous instruments when the children, in turn, used the weapons to injure other people;

Schools, churches and child-care centers that did not properly check the backgrounds of their employees, or simply transferred employees to other locations following allegations of abuse; or

Tavern owners or social hosts who continued to serve alcohol to intoxicated persons who later injured other people in drunk driving accidents.

HOW MUCH TIME DO YOU HAVE TO SUE IN PENNSYLVANIA?

Pennsylvania state law sets time limits for filing civil suits. The “statute of limitations” varies for different types of injuries. Any suit filed after the expiration of the statute of limitations cannot proceed. There are certain circumstances, such as those involving child victims, where the time for filing a lawsuit can be extended. You’re invited to call me with questions regarding Pennsylvania’s statute of limitations.

TYPES OF PENNSYLVANIA CIVIL LAWSUITS

There are many claims under which civil actions may be brought. They include wrongful death, assault and battery, intentional or negligent infliction of emotional distress, and negligence. Some of these actions are described below.

In civil cases, the crime or wrongful act is referred to as a tort. For most Pennsylvania criminal offenses, there is a corresponding tort for which a Pennsylvania crime victim may bring a civil suit. Some examples of torts include:

Assault: Putting the victim in fear of immediate injury while the perpetrator has the ability to inflict that injury.

Battery: Intentional physical contact with a person without that person's consent. Battery includes the crimes of sexual battery, rape, molestation, fondling, forcible sodomy, malicious wounding, and attempted murder.

Wrongful Death: A death caused by another person which occurs without justification or excuse, including murder, manslaughter and vehicular homicide.

False Imprisonment: Holding a victim against his or her will for any amount of time, no matter how brief. This often occurs in situations involving rape and kidnapping.

Intentional or Reckless Infliction of Emotional Distress: Causing a victim emotional distress or anxiety through extreme and offensive conduct. Emotional distress is frequently seen in stalking cases.

Fraud: An intentional misrepresentation of facts made to deceive the victim, resulting in damages. This is often seen in white collar or economic crimes such as criminal fraud, telemarketing schemes, or racketeering.

Conversion: The theft or destruction of personal property or money. This includes larceny, concealment, and embezzlement.

Negligence: The failure to use such care as a reasonably prudent person would use under similar circumstances, when such failure is the cause of the plaintiff's injury. Examples include negligent security and negligent hiring.

PERPETRATOR DEFENSES IN PENNSYLVANIA

Defendants can use several defenses to avoid civil liability. These include: Self defense, contributory/comparative negligence, assumption of risk, and immunity.

Self Defense: Perpetrators claim their actions were justified because they were defending themselves or someone else.

Contributory/Comparative Negligence: The defendant claims that the victim's negligent conduct caused or contributed to the victim's injuries. In some states, if the defendant proves that the plaintiff was negligent, this is a total bar to the plaintiff's claim, but in Pennsylvania, the amount of money the plaintiff collects will be reduced by the plaintiff's proportional share of the blame for the injury.

Assumption of Risk: Defendants claim they should not be held liable because the victims voluntarily and knowingly exposed themselves to the danger.

Immunity: The law sometimes provides government agencies, government employees, and other parties with immunity from civil liability under certain circumstances.

PENNSYLVANIA CRIME VICTIM PRIVACY

Attorneys may use several methods to protect your privacy. Your name and other personal information can be kept out of Pennsylvania's public records by filing suits under pseudonyms, such as Jane or John Doe. You can also use confidentiality agreements with the offender or third-party defendant; file cases "under seal" (closed to the public); and videotape depositions. Each of these methods allows you to fight for your rights in a safer manner.

FILING A CIVIL LAWSUIT IN PENNSYLVANIA

You begin the civil case by filing a document with a Pennsylvania court that is called the complaint. The complaint sets out the facts of the case and the legal claims being made. Defendants then have a certain amount of time to file a document called the answer. In this, defendants set forth their version of the facts and any defenses that apply. As a part of the process of the case, either side can request information from the other side.

In addition, either party can file motions asking the court to throw out certain claims or defenses — or to dismiss the case entirely.

DISCOVERY IN PENNSYLVANIA

As part of the legal process, each side can ask the other side for information and documents relating to the case. This process is called discovery. Civil discovery involves investigations of the facts and circumstances of the case, interviewing witnesses, obtaining relevant documents, and questioning parties and other witnesses under oath. The investigation may include a review of Pennsylvania police records, informal interviews of eye witnesses, and photographing the location of the crime.

REQUESTS FOR PRODUCTION OF DOCUMENTS IN PENNSYLVANIA

Document requests are a formal procedure by which one side can ask the other side to produce documents and other materials relevant to the case.

DEPOSITIONS

A deposition is a proceeding in which one party's attorney has the opportunity to question opposing parties and potential witnesses under oath. Deposition testimony is transcribed. The transcripts may be used at trial if the witnesses are no longer available, or if the witnesses offer trial testimony that conflicts with the deposition. After documents have been produced, and depositions have been completed, each side should know much more about the others side's case. At this point, the parties sometimes engage in negotiations which lead to a settlement.

TRIAL

If the parties do not reach a settlement, the case proceeds to trial. A plaintiff wins at trial if the plaintiff has met its burden of proof and the defendant has not successfully asserted a defense to the claim. If the plaintiff wins, the judge or jury awards damages and the matter is over unless the defendant appeals. A defendant wins at trial if the plaintiff has not met the burden of proof or the defendant has successfully asserted a defense. If the defendant wins, the case is finished unless the plaintiff appeals.

DAMAGES IN PENNSYLVANIA

Judges and juries have the power to decide how much money to award as damages if the plaintiff wins. In Pennsylvania, there are two main types of damages, compensatory and punitive. The goal of compensatory damages is to pay for the losses suffered by the injured party. The primary purpose of punitive damages is to punish and deter criminals or third parties.

JUDGMENT AND ENFORCEMENT IN PENNSYLVANIA

If you're thinking about filing a civil lawsuit in Pennsylvania, you should understand that obtaining a civil judgment often is only half the battle. In many cases, it may be difficult to collect the money awarded by the Pennsylvania court. Some defendants do not or cannot pay judgments entered against them. However, there are potential sources of payment, such as insurance or various types of income, which you should always consider.

WHEN A PERPETRATOR SUES A VICTIM IN PENNSYLVANIA

Occasionally, offenders may sue or counter sue their victims. Defendants may take this step to harass or intimidate victims into dropping charges or withdrawing their civil suits. Sometimes these suits are filed in response to the victim's civil complaint, along with answers to the complaint. Sometimes perpetrators file them in response to a Pennsylvania criminal charge. Truth is an absolute defense to defamation and slander, which are the most common civil claims filed by perpetrators.

CIVIL LAWSUITS IN PENNSYLVANIA CAN RESULT IN LARGE RECOVERIES FOR CRIME VICTIMS, PARTICULARLY AGAINST THIRD PARTIES

FACIAL INJURY

In a recent case decided by a jury in Pittsburgh, Mr. Evanovich — who was punched in the face with “brass knuckles” outside a bar/restaurant in McKeesport, western Pennsylvania — was awarded \$300,000 for facial scarring.

The plaintiff, who was a part-time bouncer at the bar but not working at the time of the incident, was helping the general manager break up a fight outside the bar when he was struck. Apparently, the defendant bar/restaurant had sent home the bouncer on duty at 1:30 a.m. even though the bar continued to serve alcohol until 2 a.m. The jury found that fact significant in light of the fact that the bar was located in a high crime area.

DEATH DURING A ROBBERY

In 2004, a management company settled with a crime victim for \$1,000,000 after the manager of a store located in a shopping center was killed by a robber. The victim’s estate claimed that the shopping center lacked adequate lighting, security personnel, and rear door alarms.

BRAIN DAMAGE

A 15-year-old was playing with a gun in his home when he accidentally shot an 8-year-old child, who suffered severe and permanent brain damage. The case settled in the plaintiff’s favor for an undisclosed amount. This was the first time in Pennsylvania that a gun manufacturer agreed to settle a claim for failure to “child proof” a gun made in April, 2005.

The plaintiff alleged that the Smith & Wesson 9 mm Model 915 pistol was defective because it did not have a safety device to prevent it from firing with the magazine removed. Also, the plaintiff further alleged that the pistol was not “child proof” and lacked an indicator that showed whether it was loaded.

SEXUAL ABUSE

On appeal, the Superior Court of Pennsylvania upheld a jury’s verdict in the amount of \$1,569,000 — \$1,050,000 for punitive damages, in favor of a minor who was sexually molested by a Catholic priest. The Diocese of Altoona-Johnstown had appealed on several grounds but its appeal was denied.

BUT... CRIME VICTIMS DON’T ALWAYS WIN THEIR CASES

GUNSHOTS DURING ROBBERY

Plaintiffs were in their 30s and customers of a hair salon outside Pittsburgh. Two assailants pushed their way into the salon to carry out a robbery. The plaintiffs tried to escape through a side door that was locked, after which they were shot at close range with a shotgun and handgun.

Plaintiffs sued the property owner and management company alleging a lack of security. The jury found in favor of the defendants. The plaintiff’s security expert was unable to say that suggested security measures would have prevented the crime, saying only that the crime would have been less likely to occur. The jury refused to hold the landowners responsible for the criminal acts of third parties where the plaintiffs could not establish that crime was foreseeable due to the lack of security.

CHILD SHOT WHILE EXITING AN ELEVATOR

A minor visitor at the Martin Luther King Housing Project was shot when leaving an elevator. Plaintiff alleged that the housing project violated Housing Authority rules that prohibited felons from living in the projects who were known to the Authority. Further, the plaintiff alleged that defective security devices such as a malfunctioning security camera, inoperative turnstiles, and unmanned security booths caused the injury to the plaintiff.

The Commonwealth Court of Pennsylvania found that governmental agencies such as the housing authority could not be held liable under the Political Subdivision Tort Claims Act. The Court granted the Defendant's Motion to dismiss the claim that the governmental agency Housing Authority could not be sued under the Act. The appellate court upheld the trial court's decision denying the plaintiff's claim.

ONE DIFFICULT AREA:

Holding Employers Responsible for the Criminal Acts of Their Employees While at Work

As indicated in a recent court decision, a finding of liability against an employer for an employee's criminal acts can be difficult to obtain. It is true that an employer is vicariously liable for the torts (wrongful acts) of its employee, even when the employee's actions are intentional, if the actions were done while the employee was acting within the scope of his or her employment. However, the employer will not be held liable for torts committed by the employee solely for personal motives unrelated to the employer's business.

For example, a hospital security guard raped a hospital visitor. The court dismissed the suit against the hospital because the employee's criminal conduct did not further the interests of the hospital. Instead, the acts were committed purely for personal motives and were clearly a departure from any normal security personnel duties.

AT OTHER TIMES, EMPLOYERS ARE RESPONSIBLE

In some cases, a court will hold an employer liable for its employee's criminal acts when the plaintiff can prove that the employer was negligent in hiring the employee — or failed to properly supervise the employee.

For example, an employer may be held liable for an employee's wrongful act when the employer has either hired or retained the employee, knowing of the employee's tendency for the behavior that caused the injured party's harm. Often, the employer can avoid this liability by conducting a thorough pre-employment check into the employee's background and confirming that the employee had no prior criminal history.

SO...

HOW DO YOU KNOW IF YOU HAVE A CLAIM?

Don't try to decide on your own. Often, the legal issues are complex with no clear-cut answers. That's why it's important that you contact a skilled trial attorney who can ask the right questions and give you the benefit of his legal knowledge, judgment and experience.

I AM NOT ALLOWED TO GIVE LEGAL ADVICE IN THIS BOOK

I have written this book so that I can provide you with important information either before you get injured or before you begin the process of hiring an attorney. When you are injured, you enter a war zone. The insurance industry has spent hundreds of millions of dollars to inflame the public against you and me. We will be in this together. However, I am not allowed to give legal advice in this book. I can offer suggestions and identify traps, but please do not construe anything in this book to be legal advice until you have agreed to hire me and I have agreed, in writing, to accept your case.

You're Invited to Call or E-mail!

I hope you found this information helpful.

Further, I hope you realize that you may have positive options, rather than having to pay your expenses — and endure your pain and suffering — without compensation.

If you have been injured — or if a family member has died — from any crime-related injury, please don't hesitate to call me. I will gladly speak with you over the telephone or in person, whichever you prefer. And your initial visit is always free. You're welcome to call me anytime. I promise I'll do everything I can to help you.

WARNING: Please don't delay. The strength of your case will be based on how much evidence we can find to support your claim.

Sometimes, I can compile evidence on your behalf, such as medical reports and opinions from expert witnesses. But at other times, the longer you wait, the more likely it is that evidence will disappear.

If you want to protect your legal rights — and if you want to recover the money you deserve — please don't wait one moment longer.

Call me now — or send me an e-mail. I promise I will respond promptly.

Cordially,

A handwritten signature in black ink that reads "Dan". The script is fluid and cursive, with a large, stylized 'D' and a trailing flourish.

Dan Monahan
Trial Lawyer

DANIEL F. MONAHAN, ESQUIRE

Trial Lawyer

Monahan Law Office P.C.

300 North Pottstown Pike, Suite 210 • Exton, Pennsylvania 19341

Dmonahan@monahanlawpractice.com

www.MonahanLawPractice.com

Local Telephone 610-363-3888 • Facsimile 610-594-9556

Toll Free 1-866-307-3888

Provided as an educational service
by Daniel F. Monahan, Trial Lawyer.

© Copyright 2007 by Monahan Law Office P.C.
All rights reserved.

FREE NEWSLETTER FROM DAN MONAHAN

Want to know how to best deal with insurance company denials? Want to find out specific steps you can take to find the best lawyers for your case? Want to read the “inside story” about frivolous lawsuits? Would you like some practical advice about buying insurance from someone who does not sell insurance?

These are some of the topics that are covered eight times a year in a free newsletter sent to your home by Pennsylvania attorney Dan Monahan.

Dan Monahan strongly believes that most legal disputes could be avoided if people had a better general knowledge about the legal system, insurance coverage and the insurance claim process.

There is absolutely no cost or obligation and from time to time we run contests to give away free stuff!

If you subscribe and later feel like we are wasting your time, just call to “unsubscribe”. Don’t worry, this is not the boring, “canned” newsletter that most firms buy and slap their name into. We write it and we aim to provoke people to pay more attention to their affairs.

There is no need to destroy this book. Just photocopy this form, fill in out and mail or fax it to us. Fax to: 610-594-9556 or mail to Daniel Monahan, 300 North Pottstown Pike, Suite 210, Exton, PA 19341.

Please start my subscription to your free legal newsletter:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Notes: _____

Notes: _____



DANIEL F. MONAHAN, ESQUIRE

I have been handling personal injury cases since I graduated from Villanova University School of Law in 1978. During that time, a number of these cases have been civil cases involving victims of crime.

Early in my career, some of those cases involved representing insurance companies like Pennsylvania Manufacturers, Aetna, Prudential and the Hartford. So I know the complex issues involved on both sides of the litigation battle line.

I know how to explain these issues in a manner free of clutter and legalese. This book is the result of those years of experience: *Crime Victim's Guide to Recovering Damages for Your Injuries.*



MONAHAN

Law Practice, P.C.

300 N. Pottstown Pike | Suite 210 | Exton, PA 19341

Tel: 610-363-3888 | Fax: 610-594-9556

www.monahanlawpractice.com