



## And The Defense Wins

Published 07-14-10 by DRI



DRI member [Beth Ermatinger Hanan](#) of **Gass Weber Mullins LLC** in Milwaukee, Wisconsin, recently obtained reversal of a \$1.4 million judgment against a security provider that was premised on the misconduct of one of its security officers. The defense team convinced the Wisconsin Court of Appeals that the company was not negligent as a matter of law because it had no duty to prevent its employee, a security guard at a manufacturing facility, from downloading employee badge photos onto a flash drive, and then taking them home to perform an inappropriate physical act on them and post them from his home computer to obscene websites.

Following a bench trial, the judge had concluded that the security company was liable for negligent training and supervision, and awarded the 10 female plaintiffs damages for emotional distress.

In reversing the judgment, the court of appeals saw nothing inherently dangerous about permitting employees to have access to the Internet from their workplace, and ruled that employers cannot be insurers of their employees. The company had provided the guard with training concerning both inappropriate physical harassment and employee theft. The appellate court noted that the plaintiffs' employer had provided the guard shack computer and equipped it with filtering software to prevent access to pornographic websites, and that the defendant security company was entitled to rely on that filtering. In addition, the court held that an employer's duties to train and supervise an employee do not continue beyond termination of the employee. Ultimately, the conduct of the security guard in his own home was unforeseeable, bizarre and unimaginable. The court also concluded that public policy precluded recovery because the injuries were too remote from the alleged negligence, and allowing recovery would have no sensible or just stopping point.

The Wisconsin Supreme Court declined to review the case.

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