

**BLOGS**

Employment

Tennessee Federal Court Grants Franchisor's Motion to Dismiss Claims for Negligent Hiring of Franchisee

A federal court in Tennessee recently granted a franchisor's motion to dismiss claims alleging that a franchisor was liable for a workplace mass shooting by a franchisee. *Fernald v. JFE Franchising, Inc.*, 2023 WL 2938312 (W.D. Tenn. April 13, 2023).

A federal court in Tennessee recently granted a franchisor's motion to dismiss claims alleging that a franchisor was liable for a workplace mass shooting by a franchisee. *Fernald v. JFE Franchising, Inc.*, 2023 WL 2938312 (W.D. Tenn. April 13, 2023). Plaintiff Fernald was an employee of a grocery store in Tennessee and was injured in a mass shooting perpetrated by Uk Thang, a JFE franchisee who operated a Snowfox sushi franchise inside the grocery store. After an incident at the store, the manager asked Thang to leave. Thang returned to the store with various weapons and began shooting indiscriminately, killing one person and injuring fourteen, including Fernald. Fernald alleged that Thang had a history of anti-social, antagonistic, volatile, unstable, threatening and predictably dangerous behavior. Fernald further alleged that JFE was responsible for his injuries because JFE knew or should have known of Thang's dangerous propensities, failed to use reasonable care in recruiting Thang as a franchisee, and failed to provide adequate warning to Fernald.

The court granted JFE's motion to dismiss all claims against it. Citing to Tennessee Code Section 50-1-208, the court reasoned that "neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor for any purpose." Due to the lack of an employment relationship between Thang and JFE, the court held that JFE could not be found directly liable for any negligent hiring, firing, supervision, or retention of Thang. Since there were no allegations of vicarious liability, Fernald's negligent hiring claim was dismissed. The court similarly dismissed a claim of basic negligence because Fernald did not identify any duty owed him by JFE. Fernald's further claims of negligent and intentional infliction of emotional distress were also dismissed as the facts alleged did not meet the elements required under Tennessee law.

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