

CAUSE NO. 97-06933-I

TRACY NEFF,
Plaintiff

§ IN THE DISTRICT COURT

vs.

§ DALLAS COUNTY, TEXAS

LANDMARK EDUCATION
CORPORATION AND DAVID GRILL,
AN INDIVIDUAL,
Defendants

§ 162ND JUDICIAL DISTRICT

AFFIDAVIT OF JOEL BROCKNER, Ph.D.

COMES NOW Joel Brockner, Ph.D., who deposes and states as follows:

"My name is Joel Brockner, Ph.D. I am of sound mind, am over the age of eighteen (18), and have never been convicted of a felony or a crime of moral turpitude. The statements in this affidavit are made upon my personal knowledge and are true and correct.

"I am a Full Professor of Management at the Graduate School of Business of Columbia University. My office address is Graduate School of Business, Columbia University, New York, New York 10027. I graduated from the State University of New York at Stony Brook with a Bachelor of Arts in psychology in May of 1972. Thereafter, in November of 1974 I received a Master of Science with an emphasis in Personality and Social Psychology from Tufts University. I received my Ph.D. in Psychology from Tufts in May of 1977.

"Since the time of my graduation from Tufts University with a Ph.D. in psychology in May of 1977, I have continuously taught Psychology or Management at the college level, first at Middlebury University, then at the State University of New York at Brockport, New York, then at Tufts University, then at the University of Arizona at Tucson. I have been teaching Management at Columbia University since 1984.

"My primary field of knowledge and study deals with organizational behavior and managerial decision making. My particular field of expertise is in management strategy and work place factors as they affect employees. I have done extensive work in the field of private sector consultation on managing personnel for Fortune 500 companies such as AT&T, IBM and Eastman Kodak. A true and correct copy of my current curriculum vitae is attached hereto as Exhibit "A". Further, I have done extensive scientific research and behavioral studies, as well as case studies of individuals, in the area of determining what individual psychological factors combined with what workplace factors will influence or determine a particular outcome in the workplace.

"I have reviewed the personnel file maintained by Landmark Education Corporation relating to David Grill which was produced to the Plaintiff's counsel in this case. I have also reviewed the depositions taken of Tracy Neff, Mindy Dodson and Patricia Dillon taken in this case. Further, I have reviewed the criminal records relating to David Alan Grill. In my professional opinion, I have reviewed enough information to draw certain conclusions about the management style, strategy and effectiveness of management decisions of Landmark Education Corporation with regard to its Dallas Center manager, David Grill, during the period of his employment. Such reviews are routinely done by professors of management as case studies and in conjunction with research and private-sector consulting. I have followed the usual and generally accepted scientific method in my field with regard to the conclusions expressed in this affidavit.

"I have concluded that Landmark Education Corporation was negligent and grossly negligent in its management of David Alan Grill by failing to assess his problem behaviors surrounding interaction with women, alcoholism, drug use, erratic behavior, dating program participants in the Landmark seminars, sexual inappropriateness and his violent temper. Further, I have concluded that the failure of Landmark Education Corporation to properly assess Mr. Grill's problems both in his personal life and in the work place, was a proximate cause of the sexual assault of Tracy Neff on February 3, 1995. My conclusion is based on the fact that, if management had properly dealt with Mr. Grill, he would not have had the opportunity to come into contact with persons who were program participants, such as Ms. Neff.

"Further, based upon my review of records, my education, training and experiences, and the research I have done in accordance with the scientific methods common in my field, it is my professional opinion that Landmark Education Corporation had ample reason to foresee that Mr. Grill was likely to engage in behavior that was calculated to bring discredit to Landmark Education Corporation and would be in disregard for the rights and duties he owed to others. Further, based on Mr. Grill's past history, Landmark could reasonably have foreseen that Mr. Grill would engage in inappropriate and dangerous behavior involving one or more of the following factors: (a) a female participant or graduate of the Landmark programs, (b) abuse of alcohol, (c) sexually inappropriate behavior, (d) sexual harassment, (e) violent outbursts, (f) assaultive behavior, (g) sexual harassment, and/or (h) drugs.

"Further Affidavit Sayeth Not."

Joel Brockner
Joel Brockner, Ph.D., Affiant

SWORN TO AND SUBSCRIBED before me by Joel Brockner
on the 30 day of October, 1998.

[Handwritten signature]
NOTARY PUBLIC in and for the
State of New York

MICHAEL AIRO
Notary Public, State of New York
No. 01A15017081
Qualified in Westchester County
Commission Expires August 30, 1999