

**IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA**

JEANNE BEEN as executrix of the estate of)	
ROBERT JENKINS, Deceased,)	
)	
Plaintiff,)	
)	
v.)	Case No. CJ-2003-02541
)	
JASON M. WEED and LANDMARK EDUCATION)	
CORPORATION,)	
)	
Defendant/Cross-Claimant,)	
)	
v.)	
)	
JASON M. WEED,)	
)	
Cross Plaintiff,)	
)	
v.)	
)	
LANDMARK EDUCATION CORPORATION,)	
)	
Cross-Defendant.)	

THIRD AMENDED PETITION

COMES NOW, the Plaintiff, Jeanne Been (hereinafter "Been") as executrix of the estate of Robert Jenkins, deceased, and for her cause of action against Defendants, Jason M. Weed (hereinafter "Weed") and Landmark Education Corporation, (hereinafter "Landmark") alleges and states as follows:

1. The Plaintiff is the mother of the deceased, Robert Jenkins, and has been nominated as the Executrix of the deceased's estate in Tulsa County.

2. On or about December 12, 2001, Defendant Weed wrongfully caused the death of the Plaintiff's decedent Robert Jenkins, by shooting him in Tulsa County, Oklahoma, while the deceased was acting in the course and scope of his employment as a postal carrier for the United States Postal Service.
3. At the time of his death, Plaintiff's decedent, Robert Jenkins was 30 years of age, with a projected life expectancy of 75 years;
4. Plaintiff's decedent, Robert Jenkins, was survived by his wife Amber Jenkins and dependant step-daughter, Caitlyn Danforth, the Plaintiff Jeanne Been, and his brother.
5. Due to the conduct of Weed, Plaintiff's decedent was forced to endure and did endure conscious pain and suffering from the wounds inflicted by Weed;
6. As a result of the death of the Plaintiff's decedent, his survivors have lost future support and care the decedent would have rendered;
7. As a result of the combined wrongful conduct of Weed and Landmark, Robert Jenkins' survivors suffered grief, have lost companionship of Plaintiff's decedent, and have been damaged in an amount in excess of \$10,000.00.

FIRST CAUSE OF ACTION AGAINST THE DEFENDANT WEED

COMES NOW Plaintiff Been, and for her first cause of action against Defendant Weed for wrongful death and incorporates the preceding paragraphs and states as follows:

8. Defendant Weed fired two shots at the Plaintiff's decedent. The first shot fired missed the

Plaintiff's decedent, and prior to the second shot Defendant Weed took deliberate aim and shot the Plaintiff's decedent in the back, causing his death. Therefore, Defendant Weed was a proximate cause and a direct cause of the wrongful death of the Plaintiff and, therefore, liable to the Plaintiff for damages.

SECOND CAUSE OF ACTION AGAINST THE DEFENDANT LANDMARK

COMES NOW the Plaintiff and for her second cause of action against the Defendant Landmark and incorporates the preceding paragraphs and states as follows:

9. It has been determined by the District Court of United States Court for the Northern District of Oklahoma that at the time the Defendant Weed fired the shots at the Plaintiff's decedent he was legally insane.
10. Upon information and belief, Defendant Weed was free of abnormal psychological manifestation(s) and/or disorder(s) prior to his attending the Defendant Landmark's classes. When Defendant Weed attended Defendant Landmark's classes, he was subjected to extreme emotional and psychological stress which caused his mental disorders, and which resulted in the death of the Plaintiff's decedent at Defendant Weed's hand. Further, the Defendant Landmark knew, because of their prior experiences, that this type of disorder that was experienced by Defendant Weed, was a likely and foreseeable result of attendance of their classes.
11. These results were so foreseeable that Defendant Landmark had done testing to isolate and eliminate individuals who were identified as likely to have mental disorders as a result of attendance of their classes. Defendant Weed was not one of the individuals removed from

the Defendant's program, despite screening by the Defendant Landmark.

12. The Defendant Landmark's conduct was negligent as follow:

- a) The Defendant conducted seminars which placed its attendees under extreme emotional and psychological pressure and stress, which they knew would result in certain attendees developing psychological and mental disorders, and that some of those so affected would commit acts of homicide, suicide, assault, and battery;
- b) The Defendant applied psychological methods and techniques and practiced psychology under Texas Law without a license to do so, when they knew or should have know that the practice would result in some attendees developing mental disorders and manifesting violent acts.
- c) The Defendant had notified the public that they had developed a screening process and tests to eliminate person who were likely to develop mental disorders as a result of their seminars. The Defendant's screening methods and tests failed to identify Defendant Weed and failed to eliminate him, therefore, creating a foreseeable risk of harm to the Plaintiff and those similarly situated.
- d) The Defendant failed to warn Defendant Weed, and/or those similarly situated as the Plaintiff's decedent, that a mental disorder was a foreseeable consequence of attending the Defendant's seminars when they knew or should have know that their failure to do so created a foreseeable risk of harm to the Plaintiff and those similarly situated.

- e) The Defendant failed to conduct its training in a reasonable manner.
13. The conduct of Defendant Weed was a foreseeable consequence of the Defendant Landmark's conduct and a proximate cause and a direct cause of the wrongful death of the Plaintiff's decedent and, therefore, liable to the Plaintiff for damages.

THIRD CAUSE OF ACTION AGAINST THE DEFENDANT LANDMARK

COMES NOW the Plaintiff and for her third cause of action against the Defendant Landmark for strict liability and incorporates the preceding paragraphs and states as follows:

14. The Defendant Landmark its agents and employees, by engaging in the practice of psychology without a license or adequate training to do so and/or applying psychological techniques, which focus extreme emotional distress and psychological distress on persons who attend the seminar and who the Defendant Landmark knows will experience mental disorders and extreme psychosis, are engaging in an ultrahazardous activity and are responsible for all damages to the Plaintiff, as they were a direct cause of harm. The Defendant Landmark's actions are abnormally dangerous and gives rise to strict liability as follows:

- a) The Defendant Landmark's seminars create a high degree of risk to those who attend and those effected by the individual while mental disorders caused by the seminars.
- b) Based on prior history of the Defendant Landmark, the likelihood that harm will result from the Defendant's seminars is great. Even though the percent of those that attend, who develop mental disorders resulting in homicide, is small.

- c) The Defendant Landmark has tried to limit or eliminate the risk by the exercise of screening and testing attendees, which has failed. The Defendant Landmark has failed to eliminate the risk even by the exercise of what they claim to be reasonable care.
 - d) The conduct of the Defendant Landmark's seminars is not an activity which could be considered a matter of common usage. The seminars are unique to the Defendant Landmark and are conducted solely for the economical profit of the Defendant Landmark.
 - e) Due to the risk involved to attendees and the general public, the Defendant Landmark's inability to eliminate the risk or moderate the degree of harm to attendees, is not appropriate to conduct the seminars in any location where the attendees have an opportunity to harm other human beings.
 - f) The value of the Defendant Landmark's seminars to the community is minimal, if it exists at all. Their purpose is to self perpetrate the Defendant's profits and is far out weighed by the risk of harm to members of the community by the dangerous attributes of the seminars. The utility of the Defendant Landmark activity does not justify the risk of harm it creates.
16. Therefore, the Defendant Landmark is responsible for all damages to the Plaintiff's.
17. The acts of Defendant, Weed and Defendant Landmark, as described above, was grossly negligent, willful, wanton, and intentional and/or undertaken with a reckless disregard and/or deliberate indifference to the safety of the Plaintiff's decedent and others similarly

situated, to the extent that malice can be implied and punitive damages should be awarded in an amount in excess of \$10,000.00.

WHEREFORE, Plaintiff Been prays judgment against Defendant Weed and Defendant Landmark Education Corporation, and that they be held to be jointly and severely liable for all damages, and that the Plaintiff be awarded actual damages in an amount in excess of \$10,000.00, together with attorney fees, interest, cost, punitive damage, and such other necessary and proper relief as this Honorable Court may deem just and equitable.

ATTORNEY LIEN CLAIMED

HAYES & LIDDELL, P.C.

GAYLON C. HAYES, OBA #14492
JANET M. LIDDELL, OBA 19156
6616 South Western Ave.
Oklahoma City, Oklahoma 73139
405/616-5045-phone
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF MAILING

This is to certify that on this, the ___ day of May, 2004, a true and correct copy of the above and foregoing instrument was sent via facsimile and mailed, postage pre-paid thereon via the U.S. Mails, to the following:

Mitchell M. McCune
406 South Boulder, Suite 400
Tulsa, OK 74103

Ronald L. Wallace
One N. Hudson Ave, Suite 700
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Gaylon C. Hayes/Janet M. Liddell