

WEDNESDAY, APRIL 27, 2011
10:00 A.M.

NO. 2

#25744

DAVID J. IVERSON,
Plaintiff and Appellant,

vs.

NPC INTERNATIONAL, INC.,
Defendant and Appellee,

and

NORMAN CURTIS WILLIAMS,
Defendant.

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(FOR APPELLANT)

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(FOR APPELLEE)

The Honorable Douglas E. Hoffman
Second Judicial Circuit
Minnehaha County

(CIV 08-836)

20-20-10

STATEMENT OF LEGAL ISSUES

1. WHETHER AN EMPLOYER CAN BE HELD VICARIOUSLY LIABLE FOR AN ASSAULT AND BATTERY COMMITTED BY ITS EMPLOYEE ON ITS BUSINESS PREMISES, HELP OPEN TO THE GENERAL PUBLIC, DURING BUSINESS HOURS.

(The Trial Court held in the negative)

Most Relevant Cases and Authorities:

Kirlin v. Halverson, 2008 SD 107, 758 N.W.2d 436

Restatement of Agency, Section 219(2)

Costos v. Coconut Island Corp., 137 F.3d 46 (1ST Cir. 1998)

2. WHETHER IVERSON HAS A VIABLE CAUSE OF ACTION FOR NEGLIGENT HIRING AGAINST PIZZA HUT WHEN ITS EMPLOYEE HAD A SUBSTANTIAL CRIMINAL HISTORY OF VIOLENCE AND REGULAR, PERSONAL CONTACTS WITH THE PUBLIC, AND NO BACKGROUND CHECK WAS DONE.

(The Trial Court held in the negative)

Most Relevant Cases and Authorities:

Kirlin v. Halverson, 2008 SD 107, 758 N.W.2d 436

McGuire v. Curry and Park Jefferson Speedway, Inc., 2009 SD 40, 766 N.W.2d 501

3. WHETHER THE EMPLOYER OWED A DUTY TO CONTROL AND SUPERVISE THE CONDUCT OF ITS EMPLOYEE WHO ASSAULTED A MEMBER OF THE PUBLIC IN ITS RESTAURANT DURING BUSINESS HOURS.

(The Trial Court held in the negative)

Most Relevant Cases and Authorities:

Kirlin v. Halverson, 2008 SD 107, 758 N.W.2d 436

McGuire v. Curry and Park Jefferson Speedway, Inc., 2009 SD 40, 766 N.W.2d 501

Restatement (Second) of Torts, §§315 and 317

Small v. The McKennan Hospital, 403 N.W. 2d 410 (SD 1987)