

Public Safety – When is Security Adequate?

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Do you feel safe when you are out and about in metro Atlanta? What about when you're at the mall, using public transportation, going to the amusement park or shopping at the 24 hour superstore? You may feel safe when you are *in* the mall, inside the store or the amusement park, but what about when you're in the parking lot or the parking deck on your way to and from your car? Who is responsible for your safety? From shopping centers and malls to public transportation and amusement parks, customers and patrons have been carjacked, raped, shot and beaten in the parking lots, parking decks or on the adjacent property of metro Atlanta businesses.

The issue is: who is responsible for your safety on your way to and from the business, public transportation, or even amusements park you intend to patronize? Recent six and seven figure jury verdicts illustrate the trend towards the owner/occupier being held accountable for the results of criminal activity on the premises of the business. In February, 2007, a Fulton County Superior Court jury rendered a \$1.7 million dollar verdict against MARTA for a woman who was attacked at its Lindbergh station. The assailant attacked the woman in the parking deck, not on a MARTA bus or train. Like many MARTA patrons, the woman parked her car in the morning and returned to the station after work. According to the Plaintiff's complaint, she parked her car on one of the upper levels and had to take the elevator. As she approached her car, a man attacked her and forced her into her car. Even though she screamed and blew her horn, no one from MARTA responded. The attacker then forced her into her trunk and locked it. The assailant drove the woman's car from the MARTA station and assaulted her at several locations before she was eventually able to escape.



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Of course, MARTA denied responsibility and insisted that the attack was not foreseeable. The jury apparently disagreed. The counsel for the plaintiff alleged that MARTA did not have regular security patrols and there were no security cameras. The Plaintiff also emphasized that MARTA had knowledge of other crimes at the Lindbergh and other MARTA stations. In other words, this attack was foreseeable. *Jane Doe v. Metropolitan Atlanta Rapid Transit Authority*.

A similar result was reached by a Clayton County jury against Walmart in August, 2006. In that case, the customer left the store after shopping and was attempting to return to her car in the store's parking lot at approximately 1:30 a.m. The customer was approached by a 17 year old male with a gun. The customer immediately dropped her keys, purse and shopping bag and began to run back to the store. The teenage gunman then shot the customer in the back.

The customer filed a lawsuit in Clayton County State Court against Walmart alleging failure to maintain a safe premises and inadequate security in the parking lot. Of course, Walmart denied liability and claimed that it provided adequate security in its parking lot. Like the Fulton County jury, this jury concluded after a short deliberation of approximately one hour, that Walmart was liable and arrived at a \$4.2 million dollar verdict against the retail giant. The plaintiff provided evidence that Walmart had notice of other crimes that occurred in the parking lot, including aggravated assault, sexual assault, auto theft and robbery. *Lee v. Walmart*.

A similar question will be presented if and when the Six Flags beating case gets to a jury. If you recall, a teenage kid was nearly beaten to death after leaving the park in July, 2007. He was on his way to the bus stop, when he and his brother were attacked by at least 10 young men. Six Flags' initial statement was predictable: it was not responsible because the attack did not occur in the park. The case was further complicated when it was revealed that several of the boys involved in the beating were Six Flags' employees.

Whether we feel safe or not in metro Atlanta is still an open question. However, if the Fulton and Clayton County juries are indicative of the trend, it is clear that juries will hold stores, malls, public transportation and amusement parks responsible for our safety even if the attacks occur in the parking lot or on adjacent property. Proprietors can no longer use the excuse that the attacks were not foreseeable and could not have been prevented.