

Fifth Circuit Court of Appeal State of Louisiana

No. 25-C-438

COURTNEY LEMOINE

versus

W. BANK HOTEL LLC, ET AL

IN RE W BANK HOTEL, LLC
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE R.
CHRISTOPHER COX, III, DIVISION "B", No. 831-658

TRUE COPY

February 11, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Fredericka Homberg Wicker,
Jude G. Gravois, and Timothy S. Marcel

WRIT DENIED

In this writ application, Relator, W. Bank Hotel, LLC, seeks review of the judgment of the 24th Judicial District Court, denying its motion for summary judgment on plaintiff's claim that it is directly liable for injuries allegedly inflicted upon the plaintiff, Courtney Lemoine ("Ms. Lemoine" or "Plaintiff"), by an off-duty, off-the-clock employee of the Hotel.

FACTS AND STATEMENT OF THE CASE

Relator is the former owner of a hotel located at 2200 Westbank Expressway in Harvey, Louisiana, doing business as the "Travelodge by Wyndham New Orleans West Harvey Hotel" (the "Hotel"). The incident that is the subject of this lawsuit occurred on the evening of August 19, 2021, on Hotel property. In her Petition for Damages, filed on August 16, 2022, as amended by her First Supplemental and Amending Petition for Damages filed on March 21 2024 (jointly, the "Petition"), Ms. Lemoine alleged that Christopher Conerly ("Mr. Conerly"), a Hotel employee, grabbed her by the neck and threw her down an outdoor stairway, causing her to suffer injuries. It is undisputed that Mr. Conerly was not on duty at the time of the incident and was not engaged in any business on

behalf of Relator or the Hotel. The Petition asserted claims against Relator under theories of vicarious liability and direct negligence.

At the time of the incident, Relator's managing member was Richard Park, who also acted as the general manager of the Hotel. Mr. Park did all the hiring and firing of employees. He hired employees who were recommended to him by other employees or people that he knew. He would then interview the person and, if the person appeared capable and honest, he would hire them. He explained that he had hired people to work at the Hotel for fourteen years and trusted his own judgment.

Elizabeth Conerly ("Elizabeth"), Mr. Conerly's mother, worked at the Hotel for several years as a laundress. She also lived at the Hotel, as did at least two other employees. Mr. Conerly's then-girlfriend, Daniella Hernandez, worked in the housekeeping department at the Hotel and lived in a room there. Plaintiff, Ms. Lemoine, was not employed by the Hotel but lived there with her adult son, Kalyb, and was described as a good tenant who paid her rent on time. The rooms occupied by Ms. Lemoine, Elizabeth, and Ms. Hernandez, were on the second floor, in the same corridor.

Mr. Conerly has, and had at the time he was hired, a violent criminal background. He served a lengthy sentence for attempted second-degree aggravated kidnapping, illegal discharge of a firearm, and aggravated burglary, all of which are designated crimes of violence under La. R.S. 14:2(B) and La. C.Cr.P. art. 890.3(C). In February 2020, Mr. Conerly was released on parole. After Mr. Conerly was paroled, he often visited his mother at the Hotel and sometimes stayed overnight.

Mr. Conerly was required to have a job as a condition of his parole. In 2021, Elizabeth approached Mr. Park about hiring Mr. Conerly to work at the Hotel. Mr. Park did not recall whether Elizabeth mentioned Mr. Conerly's criminal record to him when she asked him to hire Mr. Conerly. Mr. Park accepted a job application from Mr. Conerly, interviewed him, and hired him as a houseman. Mr. Conerly testified that he did not know whether he informed Mr. Park at the time that he was on parole. Mr. Park did not conduct a background check on Mr. Conerly prior to hiring him, nor did he conduct a Google search of his name. He became aware that Mr. Conerly had a criminal record but never learned the specifics. Mr. Park described Elizabeth as a "very honest, good person" and a good employee. She vouched for her son and Mr. Park trusted her. He believed that Elizabeth would look after her son and make sure that he was good. Based on his trust in, and high regard for, Elizabeth, Mr. Park testified that he would have hired Mr. Conerly notwithstanding his criminal record.

After Mr. Conerly began working at the Hotel, he and Ms. Hernandez started an intimate relationship. Mr. Conerly would regularly visit Ms. Hernandez in her room at the Hotel after working hours and would sometimes stay overnight with her.

Mr. Conerly testified that, on August 19, 2021, he was at the Hotel visiting Ms. Hernandez in her room. He stated that he had not worked that day and that Ms. Hernandez had completed her shift before he arrived at her room. While in Ms. Hernandez's room, they got into an argument over a cell phone. He stated that he took the phone and left. The argument between Mr. Conerly and Ms. Hernandez continued as Mr. Conerly proceeded down the stairs to leave the

premises. Mr. Conerly testified that he was standing about three steps from the bottom of the stairs, looking up at Ms. Hernandez, who was standing on the second-floor balcony, when he saw, in his peripheral vision, someone running up the stairs towards him, at full speed. He stepped back and put his hands out to stop the person and the person ran into him and fell down the stairs. He subsequently realized that the person who had been running towards him was Ms. Lemoine. Mr. Conerly helped her up and asked if she was okay and she stated that she was. Kalyb then ran over and punched Mr. Conerly, leaving a small cut above his left eye and the two men engaged in a brief physical altercation.

The Jefferson Parish Sheriff's Department was called to the scene. Deputy Eric Ronquille, the investigating deputy, interviewed Ms. Lemoine, Kalyb, Mr. Conerly, and Ms. Hernandez at the scene. Ms. Lemoine's account of the incident, as told to Dep. Ronquille, was different from the version recounted by Mr. Conerly in his deposition. The incident report ("Incident Report") prepared by Dep. Ronquille states that Ms. Lemoine reported that Mr. Conerly and Ms. Hernandez were standing on the stairs, blocking her ability to pass them to go up to her room. She asked them to move so that she could get by. Mr. Conerly then grabbed her by the throat and threw her down the stairs.

Using the Incident Report as a reference, Ms. Lemoine's counsel questioned Mr. Conerly in detail at his deposition about Ms. Lemoine's account of the Incident set forth in the Incident Report. He flatly denied Ms. Lemoine's version of events and maintained that the incident occurred just as he had testified. A copy of the Incident Report was attached as an exhibit to Mr. Conerly's deposition.¹

Two or three days later, Ms. Lemoine provided a written statement regarding the incident to Dep. Ronquille. The version of events provided by Ms. Lemoine in her written statement differed from her initial report to the deputy on the night of the Incident. Dep. Ronquille prepared a summary of Ms. Lemoine's written statement that he included in a supplemental report ("Supplemental Report"). The Supplemental Report reflects that Ms. Lemoine wrote that she left her room at about 11:00 p.m. on the night of the incident and walked downstairs to give Kalyb the key card to the room. When she exited her room, Ms. Lemoine observed Ms. Hernandez and Mr. Conerly involved in a physical altercation, but she walked down the stairs uninterrupted. While in the parking lot, Ms. Lemoine observed Ms. Hernandez screaming at Mr. Conerly to give her his phone. Elizabeth walked out and told Ms. Hernandez to go back inside and that Mr. Conerly would give the phone back. Shortly thereafter, a few unknown males separated Ms. Hernandez and Mr. Conerly from fighting. Ms. Lemoine then started to go back up the stairs to her room. When she reached the stair landing, Mr. Conerly bumped into her left shoulder with his right shoulder. After she asked him to allow her to pass, he bumped into her again. She then asked Mr. Conerly if she could help him with

¹ Still another version of the events was related to Dep. Ronquille by Mr. Conerly and Ms. Hernandez at the scene following the incident. They informed the deputy that they engaged in a verbal altercation with one another and, as they were walking from their apartment, Ms. Hernandez accidentally bumped Ms. Lemoine's arm as Ms. Lemoine was walking to her room. Ms. Lemoine then instigated a verbal altercation with Ms. Hernandez, during which Ms. Lemoine became irate, grabbed Ms. Hernandez's arm, and pushed her. A physical altercation between the two women ensued, at which point Kalyb ran up and punched Mr. Conerly in the face. A physical altercation then ensued between the Kalyb and Mr. Conerly, which was broken up shortly thereafter by an unknown black male. In his deposition testimony, Mr. Conerly denied that he had ever provided such a statement to Dep. Ronquille and denied the version of the Incident attributed to him and Ms. Hernandez in the Incident Report.

anything, at which point, he grabbed her by the throat, lifted her up off the platform, and pushed her down the stairs.

Mr. Conerly was never arrested, nor was he charged with a crime in connection with the incident. He, along with Relator and Relator's insurer, is named as a defendant in the Petition. The Petition asserted claims against Relator under theories of vicarious liability and direct negligence.

On July 14, 2025, Relator filed a Motion for Summary Judgment (the "Motion"), seeking dismissal of Ms. Lemoine's claims under both theories of recovery alleged in the Petition. In support of the Motion, Relator submitted an Affidavit from Mr. Park and the depositions of Mr. Conerly and Ms. Maegan Flores, who, at the time of the incident, was the mid-shift clerk and auditor for the Hotel.² Relator did not include the exhibits attached to Mr. Conerly's deposition in its submission.

Ms. Lemoine opposed the Motion, solely as to her direct liability claims. She conceded in her opposition that Mr. Conerly was not acting in the course and scope of his employment at the time of the Incident and consented to summary judgment dismissing her vicarious liability claim. She contended, however, that genuine issues of material fact precluded summary judgment on her direct negligence claims, which consist of claims for negligent hiring and inadequate security.

The crux of Ms. Lemoine's direct negligence claim was that Relator "breached its duty to take reasonable precautions against criminals as an innkeeper." She argued that she was a "contracted paying customer" of the Hotel and asserted that had Relator conducted a background check or even a simple Google search of Mr. Conerly's name, his violent criminal background would have been discovered. Her unsafe environment claim was based on her assertion that the Hotel did not have adequate security measures in place – specifically, sufficient surveillance cameras – at the time of the incident.

Ms. Lemoine did not attach any depositions or sworn statements to her opposition contradicting Mr. Conerly's version of the incident provided in his deposition or supporting any version of the Incident ever provided by her. Instead, she relied primarily on Mr. Conerly's deposition, the exhibits to the deposition, including the Incident Report and the Supplemental Report, the results of a Google search of Mr. Conerly's name, Mr. Park's deposition and affidavits, and Ms. Flores' deposition. Relator did not object to any of Ms. Lemoine's exhibits.

The district court heard the Motion on August 14, 2025. At the hearing, Relator argued that it had supported its Motion as provided in La. C.C.P. arts. 966(A)(4)(a) and 967 and that, as a result, the Plaintiff was not permitted to rest upon the mere allegations of her pleadings, but was required, by affidavits or otherwise, to set forth specific facts showing that there is a genuine issue for trial. La. C.C.P. art. 967(B). Relator asserted that the Plaintiff had not presented any evidence containing facts sufficient to demonstrate that she would be able to satisfy her burden of proof at trial. That being the case, according to Relator, there was no dispute as to any genuine issue of a material fact and it was entitled to summary judgment.

² Ms. Flores was on duty on the evening of the incident but did not witness it, as it occurred after her shift was over and she had left the premises.

Following the hearing, the district court granted the Motion as to Ms. Lemoine's vicarious liability/respondent superior claim but denied the Motion as to her direct liability claims. In stating its reasons for judgment, the district court did not comment on Ms. Lemoine's failure to submit countervailing affidavits, depositions or other such evidence permitted under Articles 966 and 967, but based its denial on factual inconsistencies in, or issues created by, the depositions of Mr. Conerly, Ms. Flores, Mr. Park and Mr. Park's sworn statements, which the district court found presented genuine issues of material fact.³

Judgment was entered on August 21, 2025, granting Relator's Motion as to Ms. Lemoine's vicarious liability claims and denying Relator's Motion as to Ms. Lemoine's direct negligence claims. Relator filed a Notice of Intent to File Supervisory Writ on September 10, 2025, and a return date was set for October 10, 2025. This writ application was timely filed on September 22, 2025. No opposition to the writ application has been filed by Ms. Lemoine.

DISCUSSION

1. Summary Judgments and Standard of Review

Appellate courts review summary judgments *de novo*, under the same criteria as the district courts, to determine whether summary judgment is appropriate. *Neville v. Redmann*, 22-175 (La. App. 5 Cir. 12/31/22), 356 So.3d 568, 575, citing, *Lapuyade v. Rawbar, Inc.*, 18-474 (La. App. 5 Cir. 12/27/18), 263 So.3d 508, 511-12. Summary judgment "shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law." La. C.C.P. art. 966(A)(3). If, as here, the mover will not bear the burden of proof at trial on the issue before the court on summary judgment, the mover needs only to show the absence of factual support for one or more essential elements of the adverse party's claim, action, or defense. La. C.C.P. art. 966(D)(1); *see also, Pelitiere v. Rinker*, 18-501 (La. App. 5 Cir. 4/17/19), 270 So.3d 817, 826. The burden then shifts to the adverse party to produce factual support sufficient to demonstrate that he will be able to satisfy his evidentiary burden of proof at trial. *Id.*; *Pelitiere*, 270 So.3d at 826. If he fails to do so, there is no genuine issue of a material fact and summary judgment will be granted. *Id.*; *Pelitiere*, 270 So.3d at 826.

The only documents that may be filed or referenced in support of or in opposition to the motion are pleadings, memoranda, affidavits, depositions, answers to interrogatories, certified medical records, certified copies of public documents or public records, certified copies of insurance policies, authentic acts, private acts duly acknowledged, promissory notes and assignments thereof, written stipulations, and admissions. La. C.C.P. art. 966(A)(4)(a). When a motion for summary judgment is made and supported as provided in La. C.C.P. art.

³ We observe here that, as Relator has pointed out, some of the statements on which the district court relied were misread by the district court or taken out of context. A non-inclusive example is that Mr. Park's sworn statement does not say, as the district court found, that Mr. Connerly "crossed the line and engaged in and engaged in a physical altercation with plaintiff." Mr. Park actually said, "***If, in fact***, Conerly crossed the line and engaged in an ***alleged*** physical altercation with Plaintiff (***as asserted in Plaintiff's Petition***), W Bank Hotel had no notice whatsoever than an incident of this nature might occur." (Emphasis added). Such issues do not affect our disposition of this writ application as our review is *de novo*.

966(A)(4)(a), an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or otherwise, must set forth specific facts showing that there is a genuine issue for trial. La. C.C.P. art. 967(B); *Pelitiere*, 270 So.3d at 827; *Darr Marine Elecs. Solutions, Inc.*, 11-908 (La. App. 5 Cir. 5/22/12), 96 So.3d 527, 533, *writ denied*, 12-1442 (La. 10/8/12), 98 So.3d 860.

In deciding a motion for summary judgment, factual inferences reasonably drawn from the evidence must be construed in favor of the non-moving party, and all doubt must be resolved in his favor. *Willis v. Medders*, 00-2507 (La. 12/8/00), 775 So.2d 1049, 1050. A fact is material if it potentially insures or precludes recovery, affects a litigant's ultimate success, or determines the outcome of the legal dispute. *Hines v. Garrett*, 04-0806 (La. 6/25/04), 876 So.2d 764, 765 (*per curiam*); *Smith v. Our Lady of the Lake Hospital, Inc.*, 93-2512 (La. 7/5/94), 639 So.2d 730, 751. A genuine issue is one as to which reasonable persons could disagree; if reasonable persons could reach only one conclusion, there is no need for trial on that issue and summary judgment is appropriate. *Hines*, 876 So.2d at 765; *Smith*, 639 So.2d at 751. In determining whether the evidence creates a genuine issue of material fact, the trial court may not make credibility determinations, evaluate testimony, or otherwise weigh the evidence. *See Smith*, 639 So.2d at 751; *Janney v. Pearce*, 09-2103 (La. App. 1 Cir. 5/7/10), 40 So.3d 285, 289, *writ denied*, 10-1356 (La. 9/24/10), 45 So.3d 1078.

2. Analysis

Because Ms. Lemoine has not filed an opposition to Relator's writ application, our *de novo* review will consider the evidence that she presented to the district court in opposition to the Motion.

Generally, an innkeeper "does not insure his guests against the risk of injury or property loss, including that resulting from violent crime." *Kraaz v. La Quinta Motor Inns, Inc.*, 410 So.2d 1048, 1053 (La. 1982); *Campbell v. Orient-Express Hotels, Louisiana, Inc.*, 24-840 (La. 3/21/25), 403 So.3d 573, 579-81. Nevertheless, "a guest is entitled to a high degree of care and protection." *Kraaz*, 410 So.2d at 1053. When an employer hires an employee who in the performance of his duties will have a unique opportunity to commit a crime against a third party, he has a duty to exercise reasonable care in the selection of that employee. *Smith v. Orkin Exterminating Co., Inc.*, 540 So.2d 363, 366 (La. App. 1st Cir. 1989).

The innkeeper has a duty to take reasonable precautions against criminal acts being committed upon guests on hotel property and reasonably adjacent areas. *Id.*; *see also, Banks v. Hyatt Corp.*, 722 F.2d 2144 (5th Cir. 1984) (interpreting Louisiana law); *Jackson*, 658 So.2d at 699. This duty requires innkeepers to exercise reasonable care in hiring, retaining, and supervising employees and to provide adequate security at the property. *Id.* at 699-701. In either case, the same duty-risk analysis used for all negligence cases in Louisiana applies to determine innkeeper liability. *Id.* at 698.

Here, Relator owed a duty to Ms. Lemoine, a paying guest of the Hotel, to exercise reasonable care in the selection of any employee whose employment provided him with a unique opportunity to commit a crime against her and also

owed a duty to prevent her from being subjected to criminal acts while on Hotel property, whether by an employee or a third-party. However, we cannot determine whether Relator breached any duty owed to Ms. Lemoine, or otherwise conduct a duty-risk analysis, without first establishing that Mr. Conerly, in fact, committed a criminal act against her. In making this determination, La. C.C.P. art. 966(D)(2) requires us to consider all evidence submitted by Ms. Lemoine in opposition to the Motion to which no timely objection was interposed, even though such evidence may not have been otherwise admissible due to lack of proper certification or authentication, as required by La. C.C.P. art. 966(A)(4)(a). *Matter of Sherman*, 24-10 (La. App. 4 Cir. 5/8/24), 401 So. 3d 128, 131, *writ denied*, 24-728 (La. 10/8/24), 394 So. 3d 274; *In re Med. Review Complaint by Downing*, 21-0698 (La. App. 4 Cir. 5/26/22), 341 So. 3d 863, 879.

Relator did not object to the evidence submitted by Ms. Lemoine, including the exhibits to Mr. Conerly's deposition. The Incident Report and the Supplemental Report are included in those exhibits and Mr. Conerly was questioned about them extensively during his deposition. Although Mr. Conerly denied Ms. Lemoine's versions of the Incident set forth in those reports, her versions are nevertheless in evidence. Indeed, the Incident Report demonstrates that Mr. Conerly himself provided a different version of the incident to Dep. Ronquille than that given at his deposition.⁴ Accordingly, we find that there are genuine issues of material fact in this case that preclude summary judgment on Ms. Lemoine's direct negligence claims against Relator.

Accordingly, for the foregoing reasons, Relator's writ application is denied.

Gretna, Louisiana, this 11th day of February, 2026.

FHW
JGG
TSM

⁴ Ms. Hernandez and Kayleb provided their own versions of the incident that conflict with the version of the incident related by Mr. Conerly in his deposition. These statements are also in evidence for purposes of the Motion.

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **02/11/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

25-C-438

E-NOTIFIED

24th Judicial District Court (Clerk)
R. Christopher Cox, III (DISTRICT JUDGE)
David K. Persons (Respondent)
Dwight L. Acomb (Relator)

William F. Bologna (Relator)
Stephen N. Elliott (Relator)
Caroline D. Elliott (Relator)
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