

Morgan & Morgan's Filing Against Granny Nannies Will Test Florida Employer Liability for Staff's Alleged Actions

At the time of hire, the complaint alleges that home health aide Curtel Hayes had a criminal record of aggravated assault and child neglect.

By Michael A. Mora | May 13, 2020 at 02:31 PM

Plaintiff Dorothy Overk, 94 years old, is suing Granny Nannies for failing to perform an appropriate investigation of a caregiver, Curtel Hayes, whom she accused of exploiting her and stealing nearly \$140,000 over a two-year span.

Her lawyer, Aaron Garnett, an Orlando attorney with Morgan & Morgan's Business Trial Group, filed the case in the Alachua County Circuit Court on behalf of Overk and her guardian, Mary Yeomans.

"Granny Nannies violated our client's family trust and must be held accountable," Garnett said. "We want to deter this type of conduct in the future to make sure it doesn't happen again to another family."

The complaint quotes from a section of the Granny Nannies website that asks: "How do you recruit and screen your caregivers?" In response, Granny Nannies claimed it looks for and screens certified nursing assistants and home health aides. "All caregivers are thoroughly screened through stringent checks of their credentials, criminal background, work references, and physical condition, they must display the kindness and compassion needed to care for others."

At the time of hire, the complaint alleges that Hayes had a criminal record of aggravated assault and child neglect. A February 2020 arrest report prepared by the Gainesville Police Department states that Hayes was stopped by an Alachua County Sheriff's Office deputy Feb. 6, driving a Toyota Highlander that the suspect purchased for around \$48,000 using one of Overk's checks.

The arrest report states that Hayes faces charges of grand theft of property valued over \$100,000 and exploitation of an elderly or disabled adult.

Background check failure?

Jeffrey H. Traynham, a lawyer for Granny Nannies who will not represent the company in court, appears to place the blame on the state.

"For all caregivers, Granny Nannies does a background check and verifies their eligibility to work in this field through the state of Florida, which makes the determination if they're eligible or ineligible."

According to Traynham, applicants seeking a position as a caregiver are subject to digital fingerprinting that is then vetted through the FBI's national database for verification and background check. Then the company submits the digital fingerprints to the state's Agency for Healthcare Administration. The agency makes a determination of whether an applicant is eligible or ineligible for employment as a caregiver.

"That verification back in 2017," Traynham said, "was verified every quarter and is now a continuous process done by the Agency for Health Care Administration to issue a notification of ineligibility if anything triggers their systems to make someone ineligible."

Harris Solomon, a partner specializing in business litigation and employment law at Brinkley Morgan in Fort Lauderdale who is not involved in the case, says it could be possible for a potential hire to get around a background check.

"Complicated fraud happens all the time in this state just as everywhere else," Solomon said.

<https://www.law.com/dailybusinessreview/2020/05/13/morgan-morgans-filing-against-granny-nannies-will-test-florida-employer-liability-for-staffs-alleged-actions/>