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HOUSTON CHRONICLE ARCHIVES

Paper: Houston Chronicle**Date:** THU 09/18/1997**Section:** A**Page:** 30**Edition:** 3 STAR**Jurors clear Bennigan's chain of liability in two shootings**By GEORGE FLYNN
Staff

A jury Wednesday cleared the Bennigan's chain of any liability in an ex-convict's shooting of an attorney and her husband during an attempted robbery at the company's southwest Houston restaurant.

Businessman Kennie Matthews had sued the company, alleging it maintained unsafe premises that contributed to the wounding of himself and murder of his wife, Lizabeth Matthews.

They were shot in the foyer on Dec. 30, 1993, after arriving to a busy lunch crowd at the Bennigan's at 6501 Southwest Freeway.

Charles Harold "Dinkie" Hughes, who had been released from prison two months earlier, demanded the husband's watch, then opened fire and fled. He is serving a life prison sentence for the crimes.

Jurors deliberated for about two hours in state District Judge Dwight Jefferson's court before returning the civil verdict in favor of the owners of the chain, Dallas-based S&A Restaurant Corp. and Steak and Ale Inc.

"It was a tragic happening, but at the same time, it was a random crime that was neither predictable or preventable," said company spokesman Peggy Marshall-Mims. "We care about our guests and would never do anything to compromise their safety."

Defense attorney Mike Johanson said jurors told him they believed that the only one responsible for the violence was Hughes himself.

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"We all feel badly for Mr. Matthews, but to find against Bennigan's would have been wrong - just wrong," Johanson said. "Jurors looked at the evidence and found a brutal, violent killer. It could have happened anywhere."

Plaintiff's attorney Mike Martin said the company should have taken reasonable steps to improve security because of high incidents of crime in the nearby Gulfton area. Before the shooting, a safety specialist for the company had examined Houston-area Bennigan's restaurants and had concerns, but the company did not act on his recommendations for security guards and other anti-crime measures, Martin told jurors.

Johanson said the company's memorandums and reports on security were not focused on the southwest Bennigan's restaurant. It was not considered unsafe, even if the general area did have incidents of violent crime, he said.

"The other side was trying to put the whole company on trial - all 375 restaurants," Johanson said. "They were trying to use the (unrelated) crime in the area to `indict' Bennigan's in this case."

Some jurors said they were impressed with the expert witness testimony of former FBI criminal behavioral specialist Robert Ressler. Ressler, in his 20 years with the FBI, created special programs to identify and track serial murderers.

He was a consultant for the movie, *Silence of the Lambs* and has interviewed and studied many of the nation's most notorious multiple slayers. such as Jeffrey Dahmer and John Wayne Gacy.

Ressler said the crime spree by Hughes before the restaurant shootings showed he was an "irrational" career criminal who "shot before he thought." Hughes would have viewed any security officer as a welcomed "challenge," not a deterrent, while the officer would have been restricted from firing in a crowded place, the witness said.

Ressler said the result is that a security officer would have been one more casualty of the gunman.

Plaintiff's attorneys noted that Hughes, despite several violent crimes, had avoided any criminal actions against law-enforcement officers. They also produced some witnesses who said they believed there was some drug use and drug dealing occurring at the restaurant, and that Hughes may have "cased" the place prior to the attack.

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