

Christopher Cowherd, Esq.



Mr. Fred Smith
Smith & Smith, LLP
1901 15th Ave S
Canyon, TX 79015

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Dear Mr. Smith:

I represent Charles Nokoni, a customer of your client Wesford & Co. department store. Mr. Nokoni was recently accused of shoplifting by your client's employees after he checked his insulin pump while shopping at their store. He was then falsely imprisoned by Wesford & Co. employees for over two hours before they apologized and released him. As a result of this incident, he has suffered considerable personal injuries and medical expenses. I am writing to request a settlement to resolve this matter and avoid litigation costs for all parties.

Mr. Nokoni was falsely imprisoned by Wesford & Co. employees, after they observed him lift his shirt momentarily to check the status of his insulin pump while he shopped for birthday presents. Without giving him a chance to explain what he was doing, Mr. Nokoni was handcuffed against his protests and marched through the store past a crowd of onlookers, some of whom took to Facebook to write about the incident. Mr. Nokoni was then imprisoned alone in a windowless room for over two hours until the police arrived. Despite knowing that the police were delayed in responding to the store, your clients declined to speak with Mr. Nokoni and did not review the security footage of the incident until after the police arrived. Once the police reviewed the footage, which revealed no evidence of wrongdoing, Mr. Nokoni was released. As a result of these events, my client has suffered severe panic attacks, claustrophobic episodes, humiliation, reputational damage, and substantial medical expenses.

Because Wesford & Co. employees injured Mr. Nokoni in violation of Texas law, if this matter reaches litigation, he would prevail on a theory of False Imprisonment. In Texas, a False Imprisonment occurs where a victim is willfully imprisoned, against their consent, and without authority of law. The only relevant authority of law in this case is the Shopkeeper's Privilege, a narrow exception based solely on the shopkeeper's reasonable belief that the customer has stolen, or is attempting to steal merchandise. Only then is imprisonment permitted, so long as it is done in a reasonable manner and for a reasonable amount of time. However, as the facts demonstrate, your client failed to meet law's minimum requirements.

The facts show that Mr. Nokoni was willfully imprisoned without his consent. Wesford & Co. employees intentionally accused Mr. Nokoni of shoplifting, placed him in handcuffs, marched him through the store, and imprisoned him for hours. The facts also show that Mr. Nokoni did not consent to the imprisonment. He vocally protested to everyone present as he was being placed in

cuffs and marched to the back of the store. He then continued to protest while he was imprisoned by banging on the door of the room and continuing to assert his innocence. Therefore, the imprisonment was intentional and without Mr. Nokoni's consent, thus requiring the authority of law to be upheld in court.

The Shopkeeper's Privilege does not provide lawful authority in this case because Mr. Nokoni's behavior does not support a reasonable belief that he was stealing merchandise, or attempting to steal merchandise. Mr. Nokoni was observed walking around the store, placing items in his basket, and briefly lifting his shirt to check his insulin monitor. This normal and necessary behavior for a diabetic customer does not support a reasonable belief that he was stealing merchandise. But even if a court were to find a reasonable belief existed, the manner in which Mr. Nokoni was imprisoned was also unreasonable. Wesford & Co. employees had security footage showing that Mr. Nokoni didn't steal, or attempt to steal any merchandise for more than two hours. During that time they did not review the footage. Instead, they waited until the police arrived to watch it. They also failed to ask Mr. Nokoni what he was doing at any point before or after the imprisonment. Had they chosen to do so, everything could have been resolved in a matter of minutes. Instead they imprisoned Mr. Nokoni for more than two hours, a length of time well outside the range typically held to be reasonable by Texas courts. Because Mr. Nokoni was imprisoned in an unreasonable manner and for an unreasonable amount of time, the Shopkeepers Privilege does not apply to your client's actions, making them a violation of Texas law.

To fully repair the injuries my client has suffered, we are requesting a written apology from the employees who are responsible for the incident, restitution for his ongoing medical expenses, and damages in the amount of \$300,000. We also ask that you reply to this letter by no later than 5:00PM CST on March 26th to avoid the litigation costs and negative press a trial would produce. If we have not heard from you by then, my client will be forced to file suit against Wesford & Co. We hope this matter can be settled quickly, fairly, and, in the best interests of all parties.

Sincerely,

Christopher Cowherd

Christopher Cowherd



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