



HOSPITALITY LAW

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Week 7: Your Responsibilities as Hospitality Operator



General Warning



Laser Radiation



Biohazard



Oxidising



Hot surface



Danger of entrapment



Danger of death



Irritant



Slippery floor



Watch your step



Cutting



High temperatures



Glass hazard



Danger of suffocation



Gas bottles



Watch for



Electricity



Danger for cutter



Entrapment hazard



Battery hazard



Rotating parts

Roccy (2021), Hotel Safety Inspection Checklist | Process Street, <https://ps-attachments.s3.amazonaws.com/487992be-88a8-48b8-aca1-185b7e85db69/llbxR0eYYCLTfcOf6xVFsg.png>

DUTIES AND OBLIGATIONS OF A HOSPITALITY OPERATOR

□ Duties of Care

- Hospitality operators owe a duty of care to those individuals who enter their establishment.
- Because of the wide variety of facilities they operate, hospitality managers can encounter a variety of duties of care.
- These include the duties to:

- Provide a reasonably **safe premise**
- Serve food and beverages **fit** for consumption
- Serve **alcoholic** beverages **responsibly**
- Hire **qualified** employees
- Properly **train** employees

- Terminate employees who pose a **danger** to other employees or guests
- Warn of **unsafe** conditions
- Safeguard **guest property**, especially when voluntarily accepting possession of it

ANALYZE THE SITUATION 7.1

- ALAN BRANDIS ARRIVED AT THE **GOLDEN FOX RESTAURANT** for a Friday-night fish fry. During his meal, a severe **thunderstorm began**, which caused the ceiling of the men's restroom to leak.

- After finishing his meal, Alan entered the men's room to wash his hands. He **slipped** on some wet tile, which was caused by the **leak in the roof**. Alan struck his head during the fall and was **severely injured**

- One week later, Alan's attorney contacted the owners of the Golden Fox with a **claim for damages**. The restaurant owners maintained the fall was not their responsibility, claiming they were not the insurers of guest safety.

- While the owners knew of the condition of the roof, **they said it leaked only during extremely heavy thunderstorms** and was too old to fix without undue economic hardship. Most important, because the storm was not within their control,

- the owners maintained that it was not reasonable to assume they could have foreseen the severity of the storm, and thus they could not be held liable for the accident.

Your comments:.....!

- 1. Was the severity of the storm a foreseeable event?
- 2. What duty of care is in question here?
- 3. Did the restaurant act prudently?
- 4. Are the restaurant's defenses valid? Why or why not?

Standards of Care

- In fulfilling the duties of care just detailed, you must **exercise a standard of care appropriate** to the given situation.
- An appropriate standard of care is determined, in part, on the level of services a guest would **reasonably expect** to find in a hospitality facility

- For example, a guest departing on a **seven - day cruise of the Pacific** would reasonably expect that the ship ' s staff would include a **full - time doctor**.
- The same guest visiting a quick - service restaurant at 11:00 P.M. would not expect to find a doctor on hand. In both cases, it is possible that a guest could suffer a heart attack and require medical care.

- The ship ' s standard of care, however, would include **medical treatment**, while the restaurant ' s would not.



Sanaullah Atallah (2022), Giant cruise ships to serve as hotels arrive on Nov 10, 14 | The Peninsula Qatar, https://m.thepeninsulaqatar.com/get/maximage/20220811_1660194067-46.jpg?1660194067

THEORIES OF LIABILITY



De Cotta (2016), Accidents on holiday in Spain - De Cotta Law, <https://decottalaw.com/wp-content/uploads/2016/12/clip-art-falling-795943.jpg>

- Despite the best efforts of management, **accidents** involving people can and do happen in hospitality facilities. Employees and guests are subject to many of the same risks in a hospitality facility that they are subject to outside the facility.

- For example, **it is just as possible to trip and fall in a restaurant parking lot as it is to fall in a grocery store parking lot.**
- It is not your responsibility as a hospitality manager to ensure that accidents never happen in your facility; that would be impossible.

- It is your responsibility to **operate in a manner that is as safe as possible, and to react responsibly** when an accident does occur. If you do not, the legal system is designed to hold you and your operation accountable.

Reasonable Care

- Hospitality managers must strive to provide an environment that is safe and secure.
- For example, a hotel manager who rents a room with a **lock** on the door should be responsible for ensuring that the lock is in proper working order.

- A guest would reasonably expect the hotel to provide a lock that was in working order



Aliexpress (2023), Smart Biometric Face Recognition/Palm Unlock Door Lock Security Digital Fingerprint Lock With Password,
https://ae01.alicdn.com/kf/HTB1_kLOSgHqK1RjSZFgq6y7JXXat.jpg

- The concept of **reasonability** is so pervasive in law that it literally sets the standard of care that hospitality organizations must provide for their employees and guests.
- **That standard is embodied in the concept of reasonable care.**

- **Reasonable care:** The degree of care that a reasonably **prudent person** would use in a similar situation.

Torts

- A tort is a wrong against **an individual**, in the same way that **a crime** is a wrong against the state
- There are **two** types of torts: **intentional and unintentional**

- For example, a patron who **drinks too much** in a bar and then drives a motor vehicle **is guilty of driving under the influence (DUI) of alcohol, a crime against the state.** If that same driver causes an accident that **injures another motorist,** the intoxicated driver would be guilty **of a tort,** that is, an act that results in injury to another.

- **Intentional torts include:** Assault ,Battery
Defamation ,Intentional infliction of emotional
distress
- **Unintentional torts include:** Negligence , Gross
negligence
- Negligence is the most common unintentional
tort.

Negligence

- A person who has not used reasonable care in a situation is deemed to have been negligent.

- Assume, for example, that a guest dives into a **resort swimming pool and injures her neck.** She thought the pool was deep enough for diving, but the point at which she jumped was only 4 feet deep. The pool **was not marked in any way to indicate the water ' s depth.**

- If a lawsuit follows, and a judge later decides that the resort knew, or could have foreseen, that its guests might dive into the pool, the resort could **be found negligent**; that is, it did not do what reasonable facility operators would do to protect their guests, such as posting **signs prohibiting diving or installing visible depth markers.**

Negligence is said to legally exist when the following four conditions have been met:

- 1. A legal duty of care is present.
- 2. The defendant has failed to provide the standard of care needed to fulfill that duty.
- 3. The defendant ' s failure to meet the legal duty was the proximate cause of the harm.
- 4. The plaintiff was injured or suffered damages.

- In the hospitality industry, managers are responsible **not** only for their own actions but, under the doctrine of **respondeat superior**, managers can also be held accountable for the **work - related acts of their employees**. In some cases, managers are even held responsible for the **acts of their guests or guests of their guests**.

Gross Negligence

- When an individual or organization behaves in a manner that demonstrates **a total disregard for the welfare of others**, they are deemed to be grossly negligent. The distinction between negligence and gross negligence is an important one, for a simple reason: **The penalty** is usually greater in a situation involving gross negligence than one involving ordinary negligence.

Contributory and Comparative Negligence

- Sometimes guests, through their own **carelessness**, can be the cause or partial cause of their own injury or harm.
- In legal parlance, this is called **contributory negligence**

- **Comparative negligence:** Shared responsibility for the harm that results from negligence.
- The comparison of negligence by the defendant with the contributory negligence of the plaintiff.

Also known as **comparative fault**

Strict Liability

- In some cases, a hospitality organization can be found liable **for damages to others even if it has not acted negligently or intentionally**. This is because some activities are considered to be so **dangerous** that their very existence imposes a greater degree of responsibility on the part of the **person conducting the activity**

- **Compensatory damages:** Monetary amount awarded to restore the injured party to the position he or she was in prior to the injury (e.g., **medical expenses, lost wages, etc.**). Also referred to as actual damages.

- **Punitive damages:** A monetary amount used as punishment and to deter the same wrongful act in the future by the defendant and others.

Demand Letter

- Typically, a manager will learn that he, she, and/or the business are being **sued** when a demand letter is received.
- The demand letter comes from **an attorney** who has been contacted by the injured plaintiff and has agreed to take up the plaintiff's cause.

Filing a Petition

- Filing a petition (or pleading or complaint) is the term used to describe the process of initiating a lawsuit. A petition is a document that officially requests a court 's assistance in resolving a dispute. The petition will identify specifically the plaintiff and the defendant. In addition, it will describe the matter it wishes for the court to decide.

- **Appeal:** A written request to a higher court to modify or reverse the decision of a lower-level court.

References

[1] STEPHEN BARTH (2009), Hospitality Law: Managing Legal Issues in the Hospitality Industry , p 259 -282 ,<https://www.pdfdrive.com/hospitalty-law-managing-legal-issues-in-the-hospitality-industry-e157128399.html>

[2] Valentini Kalargyrou (2019), Managing Entitled Employees in the Hospitality Industry: An Exploratory Study, https://www.researchgate.net/publication/336531269_Managing_Entitled_Employees_in_the_Hospitality_Industry_An_Exploratory_Study

Thank you!

Next lecture: Your Responsibilities as
Hospitality Operator to Guests

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