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Expert Witness Chronicles: Determining Responsibility for Injury at Beachfront Hotel

Editor's Note: This is the first of seven articles on an expert witness case in the hospitality industry.

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In addition to my duties at [American Military University](#), I also work as a consultant and expert witness in hospitality litigation. For anyone not familiar with this term, an expert witness is retained by an attorney to assist with a lawsuit by testifying about the subjects, standards, and methods specific to his or her areas of expertise.

In my case, I have a Ph.D. in Hospitality Management, 10 years of professional work in the hospitality industry and another 10 years of tenure as a hospitality professor. I am often hired by attorneys litigating lawsuits involving hotels, casinos, restaurants, theme parks, and other hospitality and tourism venues.

I testify on all manners of hospitality industry customs and particulars, including standards of care for operations, security, safety, and even customer care. Attorneys rely on experts to explain how things should be done and to opine whether mistakes were made in specific cases.

As such, I thought it might be interesting to write about some of these cases and my involvement in hopes that the lessons learned might benefit hospitality professionals and hospitality companies in preparing their own operations, safety, and liability management strategies. In this article, I share a story loosely based on one of my first cases.

In the interest of confidentiality to my clients and the other parties involved, I will not use the actual identities of those involved. However, I suspect you'll agree that the "who" is often far less interesting than the "what," "how," and "why."

New York Man Vacations at South Beach in Miami

The story at the center of this article involved a young man from New York, Paul, who stayed at a hotel on South Beach in Miami with friends one weekend. Paul was turning 22 years old, and to celebrate his birthday Paul's girlfriend arranged the vacation in Miami for them. They planned the weekend trip to include a Major League Baseball game, a concert, and some relaxing time. She also invited some other mutual friends to join them.

During some downtime, Paul and his friends decided to spend a few hours on the beach, which was just out behind the hotel. On the beach, Paul found that the hotel had arranged umbrellas and beach chairs with the hotel's logo on them, accessible only to hotel guests who had to present a guest room key. Staff members in hotel uniforms were on the beach to provide guests with towels, beach and ocean accessories, and food and drink available from the hotel.

After a few minutes sunbathing on the beach Paul and his friends decided to go for a swim. Paul was a good swimmer as he would often go with friends and family to the beaches of Long Island.

Paul's Life Was Changed Forever

He entered the water and spent a few minutes talking and swimming around with his friends. Then he saw an incoming wave and he cut through it head-first in order to avoid being knocked over by it. Suddenly, Paul's life was changed forever.

In cutting through the wave, Paul struck his head on a sandbar that was hidden just under the surf, just a few feet from where Paul had been standing before the wave came. In the collision he broke his neck and was instantly paralyzed from the shoulders down. Paul nearly drowned but was saved by his friends nearby who noticed that he was floating lifelessly in the water.

Paul's friends dragged him to shore and called 911. Emergency services rushed him to a nearby trauma center. Once Paul was stabilized, x-rays revealed several breaks in the upper vertebrae of his neck, and his spinal cord was irreparably severed.

Paul was eventually transported to his home in New York for permanent care. He now requires round-the-clock nursing help and monitoring. He cannot move or perform any life functions on his own. He requires manual assistance with eating, drinking, changing clothes, brushing his teeth, going to the bathroom, and all other daily activities.

Before his accident, Paul was a college student studying to build a successful career. He had a vibrant life with friends, hobbies, and interests. Now, barring a medical miracle, he will be hopelessly dependent on others for the rest of his life.

Paul and his family retained a law firm to sue the hotel and they retained me to assist in an investigation and to testify concerning industry standards of care and responsibility.

Was it the Hotel's Responsibility to Warn Paul about the Sandbar?

Paul's fundamental grievance was that the hotel made no effort to warn him about the sandbar hazard that caused him to break his neck. There were two major questions at issue: Did the hotel have a legal responsibility for taking safety measures regarding hazards on the beach and/or in the ocean? And if the answer was yes, then did the hotel in fact take adequate safety measures under the circumstances?

Through the course of my investigation and involvement in this case, I uncovered a tangled web of confusing business arrangements and endless attempts by the defendants to shift responsibility to other parties. In the following parts of this series, I will reveal what happened, and the implications regarding responsibility for other beachfront hotels.



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