



EXPERT WITNESS LAW ENFORCEMENT LIABILITY PRIVATE SECTOR PUBLIC SAFETY ISSUES [February 14, 2020](#)

Expert Witness Chronicles: Assault on the Most Vulnerable

Editor's Note: This is the first of seven articles covering a story based on the author's involvement as an expert witness in a Florida court case.

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Expert Witness Chronicles relates to my work as an expert witness in hotels, restaurants, theme parks, casinos, and other hospitality-related industries. As such, I assist attorneys litigating hospitality and tourism cases in court. [You can read all the articles in this series here.](#)

[In the first case of Expert Witness Chronicles](#), I told a story based on a catastrophic injury to a patron at a hotel on Miami Beach. In this second case, I will share a story based on another of my cases. It's a sad story about a repugnant sexual assault and battery on a mentally disabled minor in a hotel in Orlando.

The facts of this case are not largely in dispute. Rather, the pivotal questions are who is liable for what happened, and for how much?

At the onset, it's important to note that, in the interest of confidentiality owed to my clients and the other parties involved, I will not reveal the actual identities of those involved in these cases. However, as you read these stories I suspect you'll agree that the "who" is often far less interesting than the "what," "how," and "why."

Mentally Disabled Boys Staying at Hotel Go for Swim Alone

A few years ago, a support group that meets annually to share resources, knowledge, training, and guidance for physically and mentally disabled children and their families held their meeting in Orlando. Hundreds of disabled children with autism, cerebral palsy, Down syndrome, muscular dystrophy, and other conditions and their families and friends attended the gathering at an upscale convention hotel.

One evening during the event, two young brothers — Jack and John — decided to go for a swim in the hotel pool. Jack was 17 years old and John was 16. Both were mentally disabled, but functional and verbal. Their IQs were estimated to be roughly 75, meaning that they were on the borderline between below-average normal intelligence and above-average mental retardation.

Normally, Jack and John's parents would not permit the boys to go anywhere alone. However, the family had been in the hotel for several nights already, and saw that it appeared to be a safe environment with security present at all times. They also knew that the hotel was aware of the nature of their event, and that the hotel staff was prepared to help guests with disabilities if need be.

Furthermore, the family had been to the pool together the previous day, so they knew where the boys were going and that it was safe. Finally, they knew that the boys would be together, and could help each other if needed. So their parents went up to their hotel room and allowed Jack and John to go for a swim. The time was 10:30 p.m., and they gave the boys a strict curfew of midnight.

Boys are Approached by Hotel Security Officer

Jack and John finished their swim around 11:45 p.m. They went back into the hotel and headed for the elevator. The hotel was quiet. No one else was around. Suddenly, the boys were approached by a hotel security officer named Ivan. Ivan ordered the boys to stop.

Ivan asked Jack and John where they were going, and where their parents were. The boys replied that they were on their way back to their rooms where their parents were.

Ivan looked around and then ordered Jack to follow him down the hall. He told John to stay put, and that he would return for him in a few moments. The boys were frightened by the intimidating presence of a security officer wearing a paramilitary-style uniform. Not knowing their rights or the authority of private security personnel, the boys felt obligated to obey Ivan's instructions.

Assault by Security Officer

Jack left John behind and followed Ivan down the hallway, away from the elevators and toward the hotel meeting areas, which at that time of night were quiet and unoccupied. Ivan led Jack into an elevator and up to the second floor. They walked down another hallway and around a corner until they reached a remote bathroom in an alcove. Ivan had locked the bathroom earlier that night as part of his routine security duties so he knew no one was inside.

Ivan unlocked the bathroom door and ordered Jack inside. Still fearful of the situation and unable to recognize the impropriety of what Ivan was doing, Jack complied. Ivan followed Jack into the bathroom and directed Jack to sit on one of the toilets. He then removed one of Jack's flip flops and proceeded to smell Jack's foot in a non-violent and seductive way that suggested a kind of sexual fetish. Then, Ivan opened his pants and masturbated in front of Jack.

After the assault, Ivan got dressed and washed his hands without saying anything to Jack, who was confused and paralyzed with fear. Ivan then left the bathroom and continued his work duties. A few moments later, Jack mustered the courage to run out of the bathroom and return to John, who was still waiting downstairs in the lobby on the other side of the hotel. They then went to their hotel room, where Jack told his parents about the assault and what had happened to him.

Jack's parents later hired a lawyer to pursue civil damages against the hotel for the sexual assault and battery that was committed on their son by a hotel employee on the hotel's watch. Jack's attorneys hired me as an expert witness to investigate the circumstances of this assault, and to testify about the duties the hotel had owed and breached in this matter.

In the following parts of this article, I will explain what happened in this case, and how it ended.



About the Author: *Dr. Gary Deel is a Faculty Director with the School of Business at [American Military University](#). He holds a JD in Law and a Ph.D. in Hospitality/Business Management. He teaches human resources and employment law classes for American Military University, the University of Central Florida, Colorado State University and others. To contact the author, email IPSauthor@apus.edu. For more articles featuring insight from industry experts, subscribe to [In Public Safety's bi-monthly newsletter](#).*