

Lawsuits and Liabilities for Pool Owners

In our litigious world, pool owners have been sued and lost millions of dollars for many overlooked pool related features like:

- gates left open,
- algae on the bottom of the pool,
- no light in the pool,
- improper bonding at equipment pad,
- dogs untethered in their own yard.

Not to scare you, but rather give you make you aware of things you may have not thought of before, let me give you some details from a recent seminar I attended.

During the 2014 national trade show for the Association of Pool and Spa Professionals (APSP), Ray Arovesty, a lawyer and insurance agent, outlined frequently overlooked areas that pool owners and pool service companies are liable for.

He spoke from experience detailing the areas that pool owners need to pay attention to in order to protect themselves from potentially huge, bankrupting lawsuits. I will give brief details of some of the cases he has defended.

First he defined that by law since 1968, through a case in California where a company was liable for a robber falling through a skylight during a burglary, judges have determined that as a pool owner, you are liable to ensure the safety of all people who might use your pool. That includes even those not invited to use your pool. For instance a neighbor child who jumps your fence, a service person sneaking a quick dip on a hot day, or a person using the pool without your permission while you are away, are all entitled to a safe swimming environment.

In a \$6 million dollar personal injury suit where a teenager was paralyzed after he jumped a neighbor's fence at night and broke his neck during a dive in an un-lit pool, the judge determined that the pool owner was 20% liable-\$1.2 million dollars- for not having a properly working light in his pool that would have illuminated the deep end. The pool service was 10%-\$600,000- liable for not pointing out to the homeowner that the unlit pool could be a hazard. The fence jumper was determined to be 70% liable for the accident.

Another multi-million dollar suit that went against the pool owner was the case of a lawn company employee who decided to take a quick dip before leaving the backyard. He jumped in, slipped on the bottom, and broke his neck in the pool. Even though, now get this, the homeowner had fired his company the week before and he wasn't even supposed to be there, the home owner was liable for a portion of the settlement because they had allowed algae to grow on the floor which was responsible for the lawn guy slipping and getting injured.

An improperly bonded pool equipment pad led to the death of the home owner who

was out watering plants near the equipment pad. This resulted in the pool service company shouldering the blame for most of the huge settlement because they should have known electrocution could result from improper bonding.

A personal injury suit of over \$500,000 went against a pool owner and a service company when the service tech left the gate ajar and the pool owner's dog got loose. When a passing jogger tried to coax the dog away from the street it attacked her and bit off most of her ear. The service company was obvious liable for leaving the gate ajar, but the pool owner was found 50% liable for not having the dog tethered. Ultimately, the judge ruled that if you have a dog outside you must be aware that if not the technician, the wind can blow the gate open, a neighbor or meter reader might leave the gate ajar, or the dog itself might dig under or push through a barrier.

He mentioned other obvious areas of concern, including cracked or faulty diving boards, unlocked gates, broken fences, and out-of-code repairs on the pool equipment as being liability factors for the pool owner and service company.

During the 2015 season and beyond, Heschmeyer Pools will look closely at the safety issues in and around each of the pools we service in an effort to protect both you and us from possible liabilities.