

**BLOGS**

Vicarious Liability

Franchisor Not Liable for Alleged Customer Injuries at Franchised Water Park

01/09/2025 | less than a minute

A federal court in Mississippi granted summary judgment in favor of a franchisor on negligence claims that arose after eleven children allegedly contracted E. coli in a franchised water park's pool. *Neely v. Great Escapes Pelahatchie, LP*, 2024 WL 5125421 (S.D. Miss. Dec. 16, 2024). The plaintiffs claimed that the franchisor owed them a duty to make the pool reasonably safe and was directly liable for its own acts and omissions related to water safety at the franchised location.

The plaintiffs argued that, under Mississippi law, the franchisor owed a "common-law duty imposed on everyone to conform his voluntary actions to a standard of reasonable care." However, the plaintiffs failed to cite any binding authority to explain when a franchisor could become a voluntary actor subject to this rule. The court therefore considered whether there was proof that the franchisor assumed or retained control over water-management operations at the pool. The court found that the franchise agreement did not prescribe details of hygienic water management or give the franchisor close control over it. The franchisor's general brand standards did not suffice to demonstrate control over water management at the pool. Nor did the franchisor as a matter of practice exercise control over water management. Instead, when notified of issues, the franchisor directed the franchisee to resolve them and to notify the franchisor when it had done so. Accordingly, the court granted the franchisor's motion for summary judgment and dismissed all of the claims against the franchisor founded on negligence.

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