

BLOGS

Vicarious Liability

New Jersey Federal Court Finds Hilton Not Liable for Accidental Drowning at Franchised Hotel

A federal court in New Jersey granted the motion for summary judgment filed by Doubletree hotel franchisor, Hilton Franchise Holdings, LLC, and its affiliate (collectively "Hilton"), finding that Hilton was not liable for the tragic accidental drowning of a child in a franchised Doubletree hotel's pool. *Burnet v. Hilton*, 2021 WL 118924 (D.N.J. Jan. 13, 2021). The victim's family claimed that Hilton, the third-party hotel management company, and the Hilton franchisee were all negligent in causing the child's death. At summary judgment, the family argued that Hilton was both directly negligent and vicariously liable for the franchisee's negligence. Hilton filed a cross-motion for summary judgment contending that it could not be vicariously liable for the child's death because it had no agency relationship with the franchisee. Hilton also argued that it could not be directly liable because it neither owned nor possessed the hotel.

In granting Hilton's motion, the court held that it was "evident" that no agency relationship existed between Hilton and the franchisee. Examining whether an "actual" agency relationship might have existed, the court noted that the governing franchise agreement specifically disclaimed the existence of an agency relationship between the parties. It further held that Hilton's brand standards, and the biannual audits that Hilton conducted to enforce those brand standards, did not evidence an agency relationship because Hilton did not have control over the day-to-day operations of the hotel. The court also did not find any evidence of an "apparent" agency relationship. Although the plaintiff alleged that guests rely on the "badge of Hilton" as indicia of the safety of the premises, the court found no evidence that the hotel brand had lured the victim to the hotel. Finally, the court found that Hilton could not be directly liable for the drowning because it was not the landowner and, therefore owed the victim no duty of care. Accordingly, the court granted the motion for summary judgment in favor of Hilton.

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