

TOURISM & MORE'S "TOURISM TIDBITS"

Oct. 2012

Tourism and the Law

A word of caution: The following material does not come from a lawyer nor is it meant to give legal advice. Instead the information presented below is meant to stimulate thought. Please do not make any legal decisions based on the information contained within. Instead consult an attorney in your state or country before making any legal decisions.

The tourism world seems to become more complicated by the day, with both customers and clientele being aware of their legal rights and demanding satisfaction from either the tourism entity or from the courts. Any tourism and travel business today that desires to stay in business would be wise to consult with both legal counsel, with a risk management specialist, and with a tourism safety and security expert. Because both travel and tourism are dynamic businesses and the law is constantly changing, it is a good idea to hold annual reviews with these experts. To stimulate your thought processes Tourism & More recommends that you consider some or all of the following.

-Train your staff and then train them again. Remember that your employees' mistakes may mean all sorts of legal difficulties. Make sure that you not only hire qualified employees but that are well vetted and properly trained. Always think through, if I were challenged in court because of an action of my employee could I stand up to a vigorous interrogation? Were prudent methods used in selecting, evaluating, training, and retraining employees?

Take the time to know what problems exist within your tourism community and business and how to mitigate these problems. Legal concerns in tourism extend from laws surrounding rental cars to sexual assault, from in-room sanitation such a bedbugs to sexual tourism, or sexual slavery, from issues of alcoholism to issues of drug usage. Remember people on vacation often do strange things and what they do may well impact your business.

-Make sure that you understand what specific legal terms are vis-à-vis your particular business. You do not need to be an attorney, but in speaking with your legal counsel it is a good idea to understand such terminology as: reasonable care, issues of liability,

standards of care, foreseeability, and duties of care. These terms have specific legal meanings and not to understand them can cause you a great many personal and financial difficulties. The best way to avoid these difficulties is to have a lawyer review your legal situation and explain to you what are your legal rights and obligations.

-Make sure that you use specialist who understand tourism and hospitality law. There are many types of law, in the United States there is now a whole field of hospitality law. Make sure that your legal staff is aware of these laws and understands them.

-Review with your risk management team what you need to have in place, and what legal errors you need to avoid. For example, does your property or tourism business require or need CCTV cameras (closed circuit television cameras)? What are the legal consequences of CCTV cameras? What issues do they produce or lessen?

-What do you have on your property that may need extra attention? For example, is there a swimming pool on your property? If so, what are your legal responsibilities regarding water content, drains, use of lighting, safety around the pool and lifeguards? What is true of swimming pools is also true of spas, Jacuzzis, and workout areas such as gymnasiums.

-Check to see if there are legal liabilities regarding fire hazards. Ask yourself when the last time your premises were fully checked by the fire department. Do you have the correct fire alarms and protection against carbon monoxide poisoning? Are your escape routes clearly marked and all access routes are tested on a regular basis? If the fire department were called to court to testify about a fire on your premises, what would the opposition lawyer ask and how would you defend yourself?

-What health risks would you face in court? Not only do you want to be able to defend yourself against any legal liability should a pandemic strike, but you want to consider many of the mundane problems that often strike a tourism center. For example, how would you explain your food safety procedures to an opposition lawyer? Are your waiters and waitresses sensitized to need to protect people from food allergies? Do these people guess at what prepared meals contain or do they know what goes into food? Is there a written policy on asking a knowledgeable food preparer before serving a meal? Are there consequences for not following policy?

-If liquor is involved, make sure that you know all aspects of the law. All too often people forget that your bartender may be responsible (or make the administration responsible) to whom s/he serves and what are the consequences of these actions both on and off premises. Make sure that these people are well trained and hold a briefing

session for them on what are their legal obligations.

-If you operate in more than one country, it is best to check with legal experts in each country. Different nations have different laws and legal responsibilities as to standards-of-care. For example airline passengers have different rights in European Union nations than in the United States. Remember that if you are dealing with customers from around the world and you are running a multi-national business, check with lawyers from each nation to see what your legal responsibilities are and where your liabilities may be.

-Know your corporate responsibilities. If your tourism business is part of a large chain or international holding, there may be a number of other factors that need to be taken into account. In that case, it is imperative that you not only have your own legal staff but that your business' lawyer communicate with corporate headquarters.

-Seek out knowledgeable people. There are a number of legal organizations that deal with hospitality, tourism and travel law. These can be found on the internet and can provide you with a wealth of expertise.