

The IN Inn

James Higgins was a guest at the IN Inn, a trendy boutique hotel in Naples Florida. He was visiting from Chicago and was excited to be back in Florida where he had gone to college. Wanting to make an occasion of this trip, he invited his college buddy Terry Wright to hang out with him at his hotel. The hotel was beautiful, the centerpiece of which was a large swimming pool with a Tiki Bar and a decorative waterfall feature.

That afternoon Terry arrived at the hotel, the guys spent most of the afternoon lounging by the pool and drinking Mai-tai's. After a few hours James was beat, he told the bartender at the Pool Bar, "I could never keep up with that guy; he drinks like a fish." James also told the bartender that he was going up to his room to take a nap and instructed the bartender to give his friend Terry "anything he wanted" and charge it to his room.

An hour later James was awakened by a frantic knock on the door; it was hotel security; they had come to tell James that there had been an accident. While he was asleep, Terry had befriended other hotel guests and had ordered them and himself two rounds of shots. Their conversation then turned to the great pool, in particular the waterfall feature. At that point one of the guests dared Terry to dive into the pool off the top of the waterfall.

Without thinking Terry went to the rock feature, stepped over the protective chain, ignoring the sign which was hanging from the chain and read, "NO GUESTS BEYOND THIS POINT". As Terry climbed the waterfall rock, he slipped and fell into the pool and landed on Keith Bradley a registered hotel guest. In the process of the fall Terry hit his head, according to the coroner's report; he was killed instantly. A toxicology report also revealed that Terry's BAL was above the legal limit.

Terry's widow, Amanda, filed a lawsuit against, the IN Inn, James Higgins and Harry Richards (the guest who dared her husband to dive off the waterfall) claiming that they had all contributed to his death.

- How would you describe Terry as far as "guest classification" is concerned?

- Does the IN inn owe Terry a duty of care? Explain why or why not.

- Indicate whether or not the following individuals are negligent in Terry's death, be sure to classify their negligence if applicable:
 - The IN Inn
 - James Higgins
 - Harry Richards

- Is there anyone else who is negligent in this case? If so, classify their negligence.

- If you were Mrs. Wright's attorney, what types of damages would you seek on behalf of your client?

- Discuss the exculpatory signage used by the hotel; how does it factor into this case?