In Waddel v. Brashear, 257 Ky. 390, 78 S.W. (2d) 31, a suit for the wrongful death of a patron at a bathing beach caused by diving from a swing into shallow water, the court said that it was the duty of the operator of a pool used to see that the water in it was sufficiently deep to make it reasonably safe for that purpose and, if it was not, to warn or caution patrons of that fact. It was held that the evidence of the operator's negligence was sufficient for the jury, where no signs were posted nor warnings given, and that the evidence did not show conclusively that the deceased had knowledge of the shallowness of the water so as to bar recovery.

So, in Gray v. Briggs (1932) 259 Mich. 440, 243 N.W. 254, the operator of a public bathing beach was held liable for injuries sustained by one diving from a springboard into too shallow water. The court said that it was not contributory negligence as a matter of law for the plaintiff to dive from a springboard, without knowing or making any effort to ascertain the depth of the water, and that, unless warned by signs or otherwise, the plaintiff had a right to assume that it was safe for him to use the diving board in the usual and customary manner.

And in Lake Brady Co. v. Krutel (1931) 123 Ohio St. 570, 176 N.E. 226, a finding of negligence on the part of the operator of a public bathing beach was held warranted, where it failed to post notices or to inform bathers that they could not safely dive from any side of a 10-foot platform except the side containing a springboard, because of the shallowness of the water, or otherwise to inform them of the depth of water, although the other three sides of the platform were surrounded by a hand-railing. Recovery was allowed for the death of a boy caused by diving from a side of the platform on which there was a hand rail, even tho he had been swimming at the beach before, where the evidence as to his knowledge of the depth of the water into which he dived was conflicting.

In Louisville Water Co. v. Bowers (1933) 251 Ky. 71, 64 S.W. (2d) 444, where a patron was injured by diving into shallow water while a swimming pool was being refilled and when it was only partly filled, the court said that it was the duty of the proprietor of a pool used for both swimming and diving "to use ordinary care to see that there was sufficient water in the pool to make it reasonably safe for diving purposes, or to warn patrons of the danger of diving while the pool was being filled." Since there was a conflict of testimony as to whether the plaintiff knew the depth of the water, by reason of the presence of other bathers and of markers on the sides of the pool, the question of assumed risk was held properly submitted to the jury and a verdict for the plaintiff warranted.

However, in Walloch v. Heiden (1930) 180 Ark. 844, 22 S.W. 2d) 1020, a suit for injuries sustained by one diving into a swimming pool, at a time when it was being refilled, and striking the bottom, a verdidt in favor of the proprietor of the pool was held warranted, where the plaintiff was an expert swimmer and diver and was familiar with the pool. Instructions to the effect that it was the duty of the plaintiff to exercise ordinary care for his own safety when diving, but that it was not his duty to inspect the pool to determine its depth or the danger of diving and that he could only be charged with such knowledge in regard thereto as he actually possessed, unless the facts were so patent that an ordinarily prudent person could not have failed to observe them, were held proper.

And in Pinehurst Co. v. Phelps (1932) 163 Md. 68, 160 A. 736, the owner of a pleasure resort and bathing beach was held not liable for injuries received by a sixteen-year-old boy in diving from a pier into shallow water. The court said that the owner was not guilty of negligence in failing to post signs warning of the shallowness of the water, where there was no evidence that bathers were expected to use or did use the pier as a structure from which to dive. The boy, who had dived from the pier on a previous occasion and knew the circumstances, was held to have assumed the risk of the consequences of his act.