

protect bathers in case of accident, but are liable for ordinary negligence of the attendant in the performance of his duties. A life guard who goes to the rescue of a patron or guest owes the duty of exercising ordinary care; that is, such care as would be used by an ordinarily cautious life guard under like circumstances; and for a failure in this respect, with resulting injury, an action for damages will lie." And in Nolan v. Y.M.C.A. (1932) 123 Neb. 549, 243 N.W. 639, the court quotes the rules as to the duties of bathing resort keepers set out in Lyman v. Hall, supra. The case, however, was one in which the Y.M.C.A. gratuitously loaned the use of its swimming pool to Boy Scout troops.

In Swan v. Riverside Bathing Beach Co. (1931) 132 Kan. 294 P. 902, a suit for the wrongful death of a child patron of a swimming pool, it was held that no negligence was shown as against the proprietor of the pool, where life guards were on duty, and no indication that the child, whose body was later found in the pool was in danger, was brought to their attention or to that of numerous other patrons of the pool. A syllabus by the court reads as follows: "Where the parents of a nine-year-old girl sent her with friends to a modern swimming pool, providing her with the entrance fee and she had been there four times before and was a good swimmer and could go anywhere in the pool, it was not negligence to permit her to enter the pool without giving her the special attention of a guard."

In Quinn v. Smith Co. (1932) C.C.A. 5th 57 F. (2d) 784, the court said that the operator of a bathing pool was under a duty to exercise due care in policing and supervising the pool to protect patrons from the boisterous and injurious conduct of others; and that it might be liable to a patron who was thrown into the pool by those who were putting on a water carnival.

And in Hill v. Marrick (1934) 147 Or. 244, 31 P. (2d) 663, holding the proprietor of a swimming pool liable for injuries received by a patron when she was pushed by other children from a diving tower where she had gone to dive and fell on the cement edge of the pool, the court said: "For the defendant to fail to use reasonable care in furnishing a reasonably safe condition of the pool and high dive by permitting children to romp and play on the steps and platform of the high dive was negligence . . . It was the duty of defendant to use reasonable care in superintending the pool so as to furnish a reasonably safe condition. The plaintiff assumed the natural risk of diving from the high dive into the water, but did not assume negligence on the part of defendant in permitting children to jostle or push her off the high dive."

In Maehlman v. Reuben Realty Co. (1928) 32 Ohio App. 54, 166 N.E. 920, it was held error to direct a verdict in favor of persons maintaining a bathing beach, in a suit against them for injuries received by a patron when he stepped on a broken bottle under the shallow water along the beach. The court said that the defendants were under a duty to use ordinary care to make the beach safe for patrons, and that their failure to inspect the beach under the water and remove hidden and dangerous obstructions might be negligence, where, shortly before the accident, broken bottles had been found on the beach out of the water near the scene of the accident, and had been raked up, but no search had been made for broken bottles in the water.

And in Skelly v. Pleasure Beach Park Corp. (1932) 115 Conn. 92, 160 A. 309, the owner and operator of bathhouses and a bathing beach, who had fenced off a portion of the beach and required an admission charge, was held liable for injuries received by a patron from stepping into a submerged concrete block used as an anchor for a float. The court refused to accept the contention that, as the defendant's premises extended only to the low watermark, its duty to patrons was limited accordingly, and it was not liable for injury which occurred outside the low watermark, stating, "One who assumes to offer the use of public waters for bathing in connection with bathhouses and other appropriate appliances maintained by the owner of the shore owes the duty to exercise reasonable care to prevent injury to patrons who use the waters in the ordinary and usual way and consistent with the invitation extended."