



Hospitality Risk Reduction Lessons from the Past, Strategies for Today and a Look into the Future

Justin B. Jones Fee, Smith, & Sharp LLP

In today's nuclear-verdict litigation landscape, hospitality businesses face increasing exposure across vendor management, premises liability, and alcohol service practices. This piece provides some historical context, outlines key strategies for reducing legal risk in 2026, and identifies issues we will likely see in the future. By proactively addressing some of these areas, our hospitality clients can better protect their organizations and create safer, more resilient environments for guests and employees alike while at the same time ideally

curbing their actual litigation risk.

THE PAST

Historically, hospitality risk for some was predominantly thought of as slip-and-fall exposure. Boxes of paper records kept track of employee schedules and reporting. Vendor agreements were redlined by hand, and risk exposure guidelines were transferred on floppy disks. Surveillance video, if any, was stored on VHS tapes. Legal costs and legal risk audits were viewed primarily as expenses and cost centers as opposed to value adds.

STRATEGIES FOR TODAY

Today, hospitality risk encompasses a broader reach, and in today's nuclear-verdict environment, significantly more risk. Here are several key issues for hospitality risk management in 2026.

1. Insurance considerations

First, hospitality businesses should reassess their insurance limits and coverage with an eye toward today's nuclear verdict environment, ensuring that excess policies are appropriately structured and strategi-

cally assessed. Several of our clients have encountered catastrophic personal injury cases where they were simply underinsured, which presented the client with scary exposure that exceeded their available insurance.

Rather than relying on generic “off the rack” coverage that may look adequate in name only, it is important for our hospitality clients to work closely with their insurance personnel to prioritize industry specific coverage that aligns with real risk exposure. Further, clients that serve alcohol should revisit their liquor liability provisions within their policies, recognizing that gaps in alcohol related coverage can create significant vulnerabilities.

2. Risk transfer

Next, hospitality clients should take a disciplined approach to risk transfer by closely reviewing their key vendor contracts. As part of the vendor review, verification that each key vendor’s Certificate of Insurance (“COI”) accurately reflects the underlying policy can pay dividends down the road. In several instances in our hospitality cases, we identified COIs for vendors that did not match the actual written insurance policy, creating unexpected exposure. While a remedy to sue the vendor may exist, pursuing the vendor can be costly, challenging, and damaging to the vendor-business relationship. To reduce this risk, businesses should not only obtain COIs but also request full insurance policies when appropriate. Moreover, today’s AI based tools can help speed up an analysis of vendor insurance documentation for inconsistencies or gaps between the contract language and policy language.

3. Key contracts with indemnity language

Further, hospitality businesses should carefully review their contracts with counsel to ensure that the indemnity provisions truly meet their operational and risk management needs. Just as important, businesses must evaluate whether the indemnification provisions are actually enforceable in the jurisdictions where they face the greatest litigation pressure, since indemnity language can be limited or invalidated by state specific contract law on a state-by-state basis. For example, in Texas, courts apply the Ethyl rule, which requires conspicuous and explicit drafting for an indemnity clause to shift liability for a party’s own negligence, among other requirements. Ensuring the mission-critical indemnity provisions are both tailored and enforceable can help transfer risk in or even before litigation.

4. Double-check and re-think system designs for litigation

In addition, hospitality businesses should double check and rethink their system designs with litigation in mind, particularly in substantive areas where they face frequent litigation. For example, one key inquiry is how easily a business can retrieve documents when needed for litigation. I.e., sophisticated restaurant clients should be able to quickly compile maintenance requests and incident reports. This is particularly important in jurisdictions where the burden of producing information in litigation typically falls on the producing party; thus, efficient document retrieval can save expenses. While the producibility of information is obviously not the sole business consideration, as real business use still reigns paramount, thoughtfully designing systems that make frequently requested information easy to access can help reduce litigation challenges.

5. Guidelines and training - do they need a refresh?

Separately, hospitality businesses should regularly evaluate whether their formal and informal guidelines and training programs need updating, especially when materials are outdated or rely on antiquated references that no longer reflect modern operations.

Any update must also be effectively cascaded throughout the organization, since even the best revisions from legal or key decision-makers are ineffective if they never reach frontline employees.

As part of this refresh, operators should revisit their premises liability practices by: (1) strengthening written inspection checklists; (2) emphasizing the importance of swift action when hazards arise; and (3) ensuring that hazard signage includes multiple languages to meet current best practices.

These efforts should be reinforced with consistent, targeted training so that updated procedures are fully understood and reliably executed.

6. The safe service of alcohol

Hospitality businesses with alcohol-service components should maintain a focused approach to dram shop (the safe service of alcohol) compliance with a jurisdiction-by-jurisdiction analysis. Where appropriate, alcohol service providers should ensure that all required state certifications are current and consider supplemental training programs such as ServSafe, TIPS Alcohol Training, etc., to bolster responsible service practices.

While additional training expenses for the safe service of alcohol can be a concern,

consider that they offer meaningful value when framed as an added layer of protection—functioning almost like an umbrella insurance policy created through practice rather than premiums.

It is also advisable to require ongoing training on alcohol service compliance. This helps rebut in-litigation arguments that guidelines exist “only on paper” and reinforces a culture of safe service. This is especially important for businesses that rely heavily on beverage sales as a high percentage of total revenue, such as breweries and brewpubs.

In conjunction with the ongoing safe service of alcohol training, clients should include a renewed emphasis on preventing the service of alcohol to minors, which can be an exacerbating factor in hospitality dram-shop litigation.

THE FUTURE

The future of hospitality risk is sure to bring additional nuance, some known and others more opaque. For example, the proliferation of electronic data poses its own regulatory and legal issues. AI will probably help supplement a client’s repertoire in identifying and comparing insurance policies. Interestingly, video software is now being trained to recognize human behavior. Will it soon be able to identify allegedly drunk patrons? And if so, will the legal standard of care rise as the price of new video identification software drops? Exciting questions abound as new technology impacts hospitality risk.

CONCLUSION

In sum, thoughtful efforts to attempt to control risk before litigation can pay huge dividends for hospitality clients. Today’s best practices are evolving. By reviewing the appropriate insurance coverages, scrutinizing vendor contracts with an eye toward risk transfer, improving documentation systems, refreshing training, and intensifying alcohol service practices, hospitality clients can face 2026’s litigation landscape with greater confidence. While the future will bring even more change, especially with respect to technology issues, thoughtful planning now can help pay dividends in the future.



Justin B. Jones is a partner at Fee, Smith, & Sharp LLP in Dallas, where he focuses on litigation with an emphasis in hospitality, insurance, sports law, and catastrophic personal injury. He is a part of the 2026 USLAW LeadX: Pathway to Success leadership development initiative and can be reached at jjones@feesmith.com.