



THE  
**J. GUERRA  
LAW FIRM**



**Jesse E. Guerra Jr.**  
Swimming Pool Safety Lawyer  
and Aquatic Litigation Pioneer



# THE SAD TRUTH ABOUT DROWNING AND NATIONAL STATISTICS

- Drowning is the second-leading cause of injury-related death among children under the age of 15. (*U.S. Centers for Disease Control and Prevention*)
- Children under five and adolescents between the ages of 15-24 have the highest drowning rates. (*U.S. Centers for Disease Control and Prevention*)
- A swimming pool is 14 times more likely than a motor vehicle to be involved in the death of a child age 4 and under. (*Orange County California Fire Authority*)
- Drowning is the leading cause of death for infants and young children in 18 states and, nationally, ranks 2nd only to automobile accidents, claiming the lives of approximately 4,000 children each year and leaving another 12,000 with some form of permanent brain damage.
- In 2006, an average of 9 people per day drowned as a result of unintentional drownings. (*Center for Disease Control and Prevention 2006*)
- 19 percent of drowning deaths involving children occur in public pools with certified lifeguards present. (*Drowning Prevention Foundation*)
- An estimated 5,000 children ages 14 and under are hospitalized due to unintentional drowning-related incidents each year; 15 percent die in the hospital and as many as 20 percent suffer severe, permanent neurological disability. (*National Safety Council and Foundation for Aquatic Injury Prevention*)
- Children aged 1-4 are most likely to drown in hot tubs, spas and swimming pools.
- Children aged 5-14 most often drown in swimming pools and open water such as rivers, lakes, dams and canals.
- The majority of children who survive (92 percent) are discovered within two minutes following submersion, and most children who die (86 percent) are found after 10 minutes. Nearly all who require cardiopulmonary resuscitation (CPR) die or are left with severe brain injury. (*National Safety Kids Campaign*)
- In 10 states - Alaska, Arizona, California, Florida, Hawaii, Montana, Nevada, Oregon, Utah and Washington - drowning surpasses all other causes of death to children age 14 and under.

# Nobody Does Swimming Pool Cases Like We Do!

The J. Guerra Law Firm is a unique law firm that focuses on serious injury cases as a result of swimming pool accidents. **The firm is a nationally recognized aquatic litigation law firm.** Jesse Guerra is considered the “Go-To” swimming pool lawyer in Texas and has been recognized as an aquatic litigation pioneer for his success in litigating pool cases.



**NO SWIMMING POOL CASE IS TOO LARGE FOR OUR FIRM!**

# THE FIRM IS SUCCESSFUL

because each swimming pool injury/death case receives the following upon being retained by clients.

- **Immediate investigation of the accident scene** by Aquatic Litigation Experts and Trained Pool Investigators.
- **The firm's knowledge of national, state, and local pool codes** that are applicable to each case.
- **Financial resources** allocated to aggressively prosecute each case.
- The **personal attention of Jesse E. Guerra, Jr.**, the firm's founder and lead swimming pool accident attorney.
- **Aggressive, but fair prosecution** of all cases within the rules of law applicable to each jurisdiction.
- **Proven laser guided pool discovery system** designed exclusively for swimming pool accident case litigation.



# TEXAS LAWYER

PRESENTS

## *Extraordinary* **MINORITIES** *in Texas Law*

SEPTEMBER 28, 2009 • VOLUME 25 • NUMBER 26 • SECTION 2

In 2009 Jesse was honored as one of twenty-five Texas attorneys out of over 8,000 minority attorneys for his success in litigating pool cases and bringing pool safety awareness issues to the forefront of pool owners and operators in Texas.

# COMMON CAUSES

## OF SWIMMING POOL DROWNING AND ACCIDENT CASES

- 1 Murky/cloudy water pools.
- 2 Improperly trained pool maintenance staff and pool owner/operators.
- 3 Overcrowded swimming pools.
- 4 Out of date drain covers and suction outlets that do not comply with national VGB pool standards which cause entrapments.
- 5 Defective gates and latches that allow easy access to pools by young children.
- 6 Poorly lit pools with inadequate lighting in and around pools.
- 7 Inattentive lifeguards at water parks, resorts, and public pools.
- 8 Electrocution cases where faulty or exposed wiring around pools exist.
- 9 Missing emergency equipment around pools such as phones, ring buoys, life ropes, and shepherd hooks used to rescue swimmers in distress.
- 10 Dangerously designed pools that cause paralysis due to diving accidents and pools that lack in service, maintenance, and upkeep per state and national guidelines.

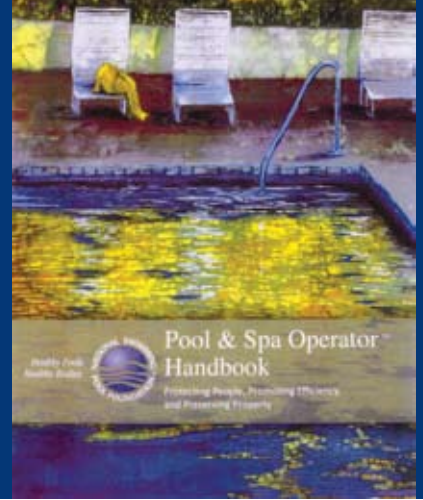


# MURKY WATER POOL

- Murky water pools are a result of poorly trained pool staff and negligent pool operators. If pools become murky, children can easily be lost underwater.
- Murky water can make drowning rescue efforts difficult if not impossible.
- Pools must be shut down immediately if the drains are not clearly visible in the deepest part of the pool.
- Improper chemical use can cause murky water.
- Broken pumps and pool equipment can also cause cloudy water.



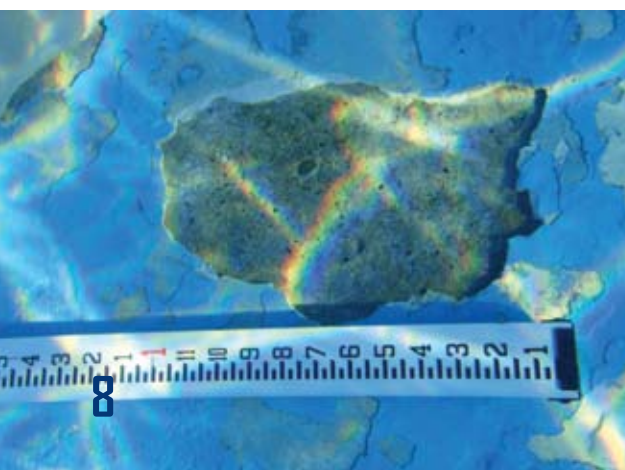
Clear pool with visible drain



# IMPROPER TRAINING

Pool owners and operators must employ properly trained pool maintenance staff. When pool operators fail to do this, the following often occur.

- Poor water clarity.
- Dangerous pool deck conditions.
- Improper chemical use.
- Improper pool equipment maintenance.
- Lack of emergency rescue equipment.
- Inaccurate pool logs required by state health laws.
- Overtreating pools with too much soda ash, chlorine, and other pool chemicals.
- Negligent maintenance of pool rescue equipment.





## OVERCROWDED POOLS

- Pools that are allowed to become overcrowded hinder parent's ability to supervise children in pools.
- Children can also be physically injured by coming into contact with other swimmers if pool bather laws are not followed.

## OUT OF DATE DRAIN COVERS

- Out of date drain covers are dangerous and can easily cause entrapment situations where children cannot free themselves.
- Entrapment situations can cause permanent scarring and often result in a child's death.





# DEFECTIVE GATES AND LATCHES

- All public pool enclosures/gates must meet certain height and width between picket requirements.
- Enclosures must be at least 4 feet high and not be able to have a 4 inch ball go through, under, or around the enclosure or gate.
- All public pool gates must self-close and self-latch to prevent young children from accessing pools.
- Gates must self-close if released 6 inches from the latch.
- Latches should not be rusty or defective.





# INADEQUATE POOL LIGHTING

- Pools must have lighting in and around pools that meet local, state, and national pool standards.
- If lighting does not exist, rescue of children in pools at night can be hindered dramatically.
- People can be paralyzed if they dive into a shallow pool area where no lighting exists that would alert divers to shallow areas in the pool.

Pool light out

## INADEQUATE DEPTHS MARKERS/MISSING FLOAT ROPES AND DEMARCATION LINES

- Faded or inadequate depth markers can also allow swimmers to get into the deep areas of the pool without warning.
- Missing float ropes and demarcation lines can allow swimmers access to deep water without warning.



Faded depth markers



# INATTENTIVE LIFEGUARDS OR POOL MONITORS

Swimmers in distress can easily go unnoticed if lifeguards:

- are not properly trained or certified.
- are not paying attention to their areas or zones of observation.
- are not adequately trained to rescue swimmers in distress.
- are not knowledgeable on administering CPR after swimmers are rescued.
- are not performing scanning techniques over the zones of the pool they are guarding.
- are busy texting on cell phones or socializing with guests.
- not following the 10/20 protection rule. (Lifeguards should have 10 seconds to recognize a swimmer in distress and the lifeguard then has 20 seconds to reach swimmer and render aid.)



Lifeguard abandons the lifeguard station



Lifeguard texting



# ELECTROCUTION ACCIDENTS

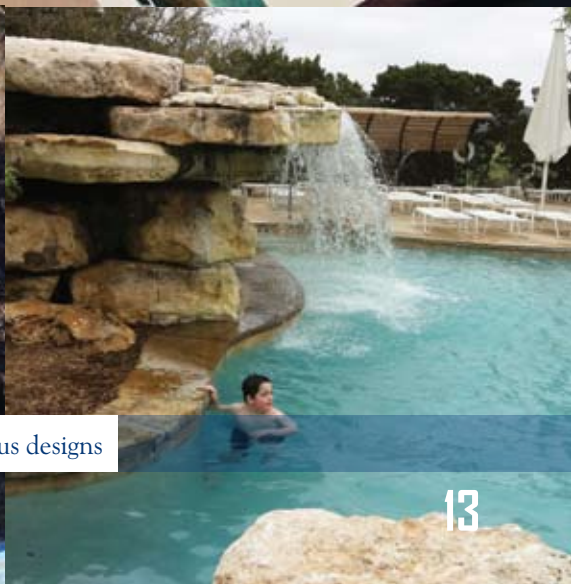
- Public pools must meet strict guidelines pertaining to electrical codes to prevent electrocution accidents.
- All pools and spas must have a ground fault interrupter (GFI) for each electrical device to protect against electrocution accidents.

## DANGEROUSLY DESIGNED POOLS

- Encourage diving off rock structures that can lead to serious injury or death.
- Pools must be designed in a safe manner to decrease the risk of diving injury or other serious injuries to swimmers.
- Waterfalls create dangerous areas where swimmers can go missing underneath the waterfall and prevent their rescue if needed.
- Pools should not be designed with blind spot areas.



Dangerous designs



# APARTMENT COMPLEXES

- Apartment complexes have a legal duty to ensure that the pool used by its residents and guests is safe for public use.

The pool must have:

- Clear water with drain clearly visible in the deepest part of the pool at all times.
- Gates and enclosures that meet pool guidelines.
- Self-latching and closing gates.
- Pool operated in compliance with local, state, and national guidelines.
- Emergency phones located near pool.
- Visible life saving equipment around the pool.
- Virginia Graeme Baker compliant drains that comply with Federal Law.
- Properly trained pool maintenance staff.
- Valid pool permits.





# HOTELS/ MOTELS

- Hotel operators and owners also have a legal duty to their guests to ensure that their pool is being operated in full compliance with local, state, and national pool regulations.
- Hotel operators must employ trained pool staff to ensure that the pool is being operated in compliance with pool guidelines.
- **Hotel Operators must adequately warn their guests of dangerous conditions in and around their pool and have a legal duty to make those conditions safe.**



# WATER PARKS/WATER SLIDES

- Must be safe for public use.
- Must not have hidden dangers such as riptides and currents that allow swimmers to find themselves in need of rescue.
- Must be designed in a reasonably safe manner to reduce risk to water park guest.
- Must ensure the equipment is working properly to eliminate dangerous conditions.
- Must be properly staffed with trained lifeguards and onsite emergency medical staff.
- Provide flotation devices for their guests.
- Have proper signage for warnings and depth markers.
- Water park and slide owners must adequately warn their guests of dangerous conditions and have a legal duty to make the park and slides safe for public use.





# RESORTS

- In the event that resorts offer open water areas for swimmers, the areas should be monitored with trained lifeguards and/or provide proper signage to warn guests of any dangerous conditions such as riptides or other known water hazards.
- In the event lifeguards are used, the resort must ensure that those lifeguards are properly trained and certified.



# VIRGINIA GRAEME BAKER POOL AND SPA SAFETY ACT

## NATIONAL LAW PASSED THAT AFFECTS ALL PUBLIC POOLS AND SPAS

In December 2007, Congress and President Bush signed a new law which requires ALL PUBLIC POOLS AND SPAS to comply with the Virginia Graeme Baker Pool and Spa Safety Act (VGB Act) by December 2008. The law states that “each public pool and spa in the United States must be equipped with anti-entrapment devices or systems that comply with the ASME/ANSI 112.19.8 performance standard or any successor standard; and each public pool and spa in the United States with a single main drain other than an unblockable drain shall be equipped, at a minimum, with 1 or more of the following devices or systems designed to prevent entrapment by pool or spa drains”.

**Pools or spas with a single main drain require additional protection. Options include:**

- eliminating the drain or reversing the flow
- adding a second, properly spaced outlet
- installing a SVRS (safety vacuum release system)
- installing an automatic pump shut-off system
- installing a suction limiting vent system
- adding a gravity drainage system

“Effective 1 year after the date of enactment of this title, each swimming pool or spa drain cover manufactured, distributed or entered into commerce in the United States shall conform to the entrapment protection standards of the ASME/ANSI A 112.19.8 performance standard, or any successor standard regulating such swimming pool or drain cover.”

## BE AWARE OF THE 5 TYPES OF ENTRAPMENT:



**Hair:** Hair can become entangled in an improperly covered drain.



**Limbs:** Arms or legs can get lodged and may not be able to be pulled free from an improperly covered drain, even if the pumps are turned off.



**Body:** Any part of the body that covers a drain can be held down by the suction.



**Evisceration:** Sitting on a drain with suction or a broken or missing cover can cause injuries or disembowelment.



**Mechanical:** Fingers, toes, and items such as jewelry or a bathing suit can become entangled and stuck in a non-compliant drain or cover.

# WE WIN BECAUSE WE KNOW

both the pool standards and the law and are willing to use all our firm's resources to apply them to each case.



- We know the applicable codes, rules, and regulations of swimming pools that must be met by pool owners.
- Experience in past and present swimming pool injury and death cases.
- **Jesse E. Guerra, Jr.** is a sought out aquatic legal expert in the aquatic safety area by local, state, and national government agencies.
- In 2011, Jesse was asked to serve as an **expert panel member on drowning prevention** for the Center for Disease Control & Prevention, (CDC) and the National Center for Injury Prevention & Control (NCIPC).
- **Advisory Board Member for the National Drowning Prevention Alliance**, (NDPA).

# CLIENT INTERACTION



- We have a staff that truly cares about each client and their personal needs.
- Our clients get access to our personal cell phones for after hours attention from lawyers and staff.



■ We keep our clients well informed and updated with regard to the status of their cases through regular communication by phone or written correspondence depending on the clients preference.

■ At The J. Guerra Law Firm the client is always the boss and we aim to give each client world class service and respect.

# ABOUT JESSE

Like most parents, Jesse E. Guerra Jr. always knew that swimming pools and kids could be a deadly combination. But the father of four never gave serious thought to making pools safer for other Texans until he became a plaintiffs personal injury lawyer.

He has recovered millions of dollars for clients in what he views as avoidable injuries and deaths in swimming pools, and he continues to handle cases involving swimming pool deaths on a daily basis. **(Results for each case may vary according to liability, damages, facts, and venues.)** Among the myriad issues: broken gates, inadequate locks, absent lifeguards and, in one case, a pool filled with water so murky it was impossible to find a child who had slipped below the surface.

As a direct result of the suits he has filed for clients, pool designs have been made safer, broken fences have been repaired, lifeguards have been hired, pool operators are now certified and trained, safety equipment has been installed and water safety plans have been put in place.

Based on these experiences, Guerra concluded that pool safety awareness among the people who own and operate pools at apartment buildings, public facilities and resorts was sadly lacking. ***“When I go and take these depositions of the people operating pools, they don’t even know what chlorine is. It’s like, ‘Hey Joe, you’re responsible for the pool,’ and they throw some tablets in there,”*** he says. So Guerra decided to do something more than represent families injured by alleged negligence. He has launched a one man campaign to educate people about pool safety. His first goal has been to get information out via the internet. He is also involved in pool safety campaigns and events statewide. He is a prolific poster and blogger on pool safety issues ([www.swimmingpoolsafetynews.com](http://www.swimmingpoolsafetynews.com)), he says. He also has appeared on local



**Jesse E. Guerra Jr.**  
Swimming Pool Safety Lawyer

# POOL SAFETY AWARENESS AND COMMUNITY INVOLVEMENT

television discussing pool safety. He is currently working on a way to make the Texas Administrative Code standards regarding public pools readily available in Spanish, because he noticed that the majority of pool maintenance workers in the cases he has handled were Spanish-speakers who were not conversant in English. *"They're being asked to abide by guidelines they can't read,"* says Guerra. **Jesse is also currently founding with other pool safety experts, a drowning prevention coalition for the state of Texas, whose mission will be to prevent drownings statewide.**

Guerra's success has allowed him to establish two new scholarships: one available to law students through his alma mater, the Arizona State University Sandra Day O'Connor School of Law, and the other available through the League of United Latin American Citizens to provide college money to Hispanic high school students. Both scholarships honor his mother, whom Guerra says served as a role model to him as a civil justice advocate along with his late stepfather, the renowned Judge Albert A. Pena. Additionally, Guerra enjoys acting as a mentor to local Hispanic students considering law school or already studying law. The firm also contributes financially to many drowning prevention organizations annually. ***Jesse's campaign is important because minority children have the highest drowning rates in the country. "Being a minority made me want to do my part to stop this nationwide drowning statistic."***



**We know what our clients and  
referral attorneys expect and  
We Deliver!**



THE  
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