



# The most expensive hotel in-room movie in history

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In October 2007, a Norwalk, California, Superior Court jury found the Value Lodge Hotel of Artesia, California, liable for involuntarily subjecting 8 and 9-year old sisters to hard-core pornographic movies.

The registered guest, a woman from Tennessee, checked into the Value Lodge Hotel where she informed the person at the front desk that she was there with her two young daughters. After check in, the woman took a shower and told her daughters to watch television.

The daughters turned on the TV and came across a pornographic television channel, which was unprotected and could be accessed just like any other regular television channel or program. As was later asserted at trial, the material had included “close up images of people engaged in sodomy and homosexual acts.” The Mother sued the hotel for \$640,000.

The jury held the hotel was liable since it allegedly didn’t have “lock outs” to pornography on its television screens. The award was based on the plaintiff’s claim of emotional distress for her and her daughters as a result of the hotel’s negligence. The jury awarded the mother \$85,000 in damages. The judge did not allow punitive damages in this case.

During the trial, the mother’s attorneys presented testimony from a hotel expert, who commented that in his thirty years experience, he has never seen a family hotel where some affirmative action was not necessary in order to access adult movies.

The hotel argued that there was a sign on the television advising guests to notify the front desk if they did not want the adult movies accessible, but the hotel could not produce a sign as evidence.

After the trial, the jury said they did not believe the hotel in fact had a sign or any other notification in the rooms about the adult movies.



### How does this case affect hotels with adult movies?

The facts of this case are very specific. The hotel’s adult movies were not protected in the usual hotel “movie system”, which requires the guest to push numerous remote buttons, and pass through numerous movie/ordering screens. The adult movies at this hotel were just one of the regular channels, the same as all of the rest of the television channels.

The jury felt the hotel had a “duty” to protect children from this type of unprotected and simple access to an adult movie. Remember that all lawsuits start with the neglect or failure of a “duty” that is required from one party to another. Many would probably agree that in this specific case, the hotel did have a “duty” to prevent children from viewing adult movies.

What is a hotel’s “duty” if it doesn’t grant immediate access to adult movies, but instead relies upon a hotel movie system (such as LodgeNet<sup>®</sup> or On-Command) that requires a guest to select specific movies and go through numerous screens and buttons to order that movie?

The Norwalk Superior Court verdict warns hoteliers that they do have a duty to protect children from adult movies. But the Court does not offer any guidance for other adult movie systems that are currently being used in a majority of hotels.

One could argue that hotels that employ a LodgeNet® or On-Command in-room movie system is adequately protected, as the movie system requires numerous selection screens, remote button pushing and ordering screens before a movie can be ordered. There is also an automatic defense in common law known as “improper parental supervision” that can be used if a child’s parent is present and the child gets injured or otherwise harmed. The defense to the child’s harm can be that the child “was not properly supervised” by the parent who was present. Of course, the exact facts of each case would dictate what the “duty” of the hotel was, and what the “duty” of the parent was, in those very specific circumstances.



One could also argue that if the hotel was held liable for what a child sees on a hotel television, then it would create a “slippery slope” for other television situations. For instance, the Animal Planet channel shows African lions attacking and killing a defenseless animal during a nature program. Children could be harmed by seeing an animal they loved being mauled and eaten by another animal. So, is the hotel responsible for that situation? Or how about the Health Channel televising a real-life medical operation on a patient that shows blood and human body organs? This could also upset a child. Clearly, there is no simple answer to this question.

And, what about cable movie channels that most hotels offer for free such as HBO or Showtime? HBO and Showtime are in the TV line up as regular television channels and often carry very provocative and sexually oriented programming; but these channels are not protected or blocked in any way from younger viewers in hotel rooms.

#### **So, what should hoteliers do?**

1. Train all staff to ask guests at check in if they would like any of “the movies” turned off in the room. This is especially important if the front desk clerk sees the guest is with children at check-in, or the guest is requesting a crib or rollaway bed. This includes HBO, etc.
2. Post a sign or small placard on the television advising the guest that the hotel has adult programming, and to call the front desk if they would like those channels blocked. Include this advisement in the guestroom directory and/or television channel guide.
3. A more conservative option would be to turn off all adult movies to all hotel rooms. This would require the guest to specifically call the front desk and request the movies to be turned on, which now protects the hotel from accusations of negligence. However, this step will increase the front desk’s work load, as they will have to respond to dozens of calls every night asking for movies. This might also upset many guests, as it becomes inconvenient to have to call to obtain access to these movies. Carefully consider all of the consequences to having the movies turned off all of the time.
4. If a guest calls and informs the front desk they are receiving “free movies” which they didn’t ask for or pay for, then staff must react quickly to turn off the movies. Don’t take a guest’s complaint of getting “free movies” lightly. Have Engineering respond to the guestroom to ensure the problem is solved.
5. Regularly check the hotel’s movie system by spot auditing random turnover rooms after they have been cleaned to ensure that the safeguards are working properly. Keep in mind that when a hotel undergoes renovations, it is easier for an in-room movie system to malfunction or become compromised. ✧

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