

Effects of OSHA Ruling on SeaWorld Tourism

Item for a Legal News Site

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There is little to dispute that SeaWorld currently faces a deluge of bad publicity. Incidents between killer whales and trainers continue to occur with the most recent tragedy being the death of Dawn Brancheau in 2010. These incidents subject SeaWorld to further scrutiny as not only are its safety practices questioned but also the treatment of its animals. The documentary [Blackfish](#) is one example of this scrutiny.

The OSHA decision is one part of this public image nightmare. It primarily affects how trainers interact with captive marine life. The limitations themselves are not the main drive decreasing SeaWorld tourism in Florida but they play a role in the continued publicity challenges decreasing park attendance.

Case Background

On February 24, 2010, SeaWorld trainer, Dawn Brancheau, was working with Tilikum in Shamu Stadium in Orlando, Florida. She was performing "drywork", meaning she was on stage and not in the water. While lying on her back on a platform cueing Tilikum to roll over, Tilikum grabbed her arm and pulled her under the water while tossing her around. She suffered traumatic injuries and drowned.

It was not Tilikum's first incident. He previously charged trainers and was involved in the death of a trainer at his previous home in SeaLand in Vancouver, B.C. In 1999, a homeless man was found dead and draped over his body. His role in that death is unknown but assumed.

After a series of inspections on the SeaWorld premises, the U.S. Department of Labor issued a [citation](#) for OSHA violations on August 23, 2010. In that citation, it discussed Tilikum's aggressive history and concluded SeaWorld did not take enough precautions to protect trainers. This eliminated all "waterwork" where trainers work with the animals in the water and limited trainers to the stage.

SeaWorld [appealed](#) the decision to the U.S. Court of Appeals for the District of Columbia. On April 11, 2014, the court upheld the penalties against SeaWorld.

Changes Implemented and Required

SeaWorld voluntarily stopped all waterwork after Brancheau's death. It enhanced minimum distances between trainers and Tilikum while trainers performed drywork. SeaWorld did not install barriers as that was considered infeasible. The requirement for barriers was a primary reason for the appeal.

In 2012, SeaWorld allowed specific trainers back in the water for care and veterinary purposes. It uses a specially designed medical pool where the whale can be removed quickly in case of aggression.

Probable Effects on Tourism

In the first half of 2013, SeaWorld experienced a [6% decline](#) in visitors. The decline in visits continued into 2014: [Attendance dropped 15%](#) in first quarter of 2014. Many sources, including the [LA Times](#), attribute the attendance reductions to the documentary, [Blackfish](#), released January 2013. SeaWorld denies that link and [disputes](#) the claims in the movie. Bad weather in Florida is also blamed for the drop in attendance as well as an ill-timed Easter weekend.

However, SeaWorld appears unconcerned about being limited to drywork. The appellate court opinion indicates that neither the trial court nor SeaWorld considered the perception of danger accompanying waterwork essential to SeaWorld's business. The court pointed out the voluntary safety measures, including ending waterwork, after Brancheau's death. ([U.S. Court of Appeals Opinion](#), page 11). A link between stopping waterwork and the decreased attendance is inconclusive.

While this ruling addresses worker safety, it is one part of a larger publicity challenge. SeaWorld's decrease in tourist activity can be attributed to many causes and it is difficult to establish a dominant one. The OSHA decision will likely contribute to this steady decrease in park visitors as long as the publicity challenges continue.