

NEW MEXICO INJURY ATTORNEY BLOG

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Reach of New Mexico Dram Shop Laws Extends to Business Wining & Dining

Businesses often wine and dine clients and potential clients for business development and marketing. The wining part of the equation will on occasion lead to some pretty disastrous consequences. The recent New Mexico Supreme Court case of *Delfino v. Griffo* addressed the responsibility for these consequences under the state's liquor liability laws (otherwise known as dram shop laws).

New Mexico's dram shop liability laws have been long established. Under the dram shop provisions of the Liquor Liability Act, restaurants, bars, hotels and the like have routinely been held responsible for injuries and other damages resulting from over serving patrons which often come in the form of **DWI auto accidents**. The Act also addresses social hosts such as individuals serving alcohol in their homes. The *Delfino* case stretched the definition of "social host" to include businesses that entertain clients or associates with alcohol.

Delfino involved several pharmaceutical representatives who wine and dined Alicia Gonzales, a female employee of doctor's office, for 8 hours jumping from one bar and restaurant to the next as the Ms. Gonzales became more and more intoxicated. In the end, they gave her a pat on the back, put her in her car and sent her off to collide with a family resulting in the **wrongful death** of a seven year old boy and badly injuring the other occupants in the car.

The defendant pharmaceutical companies and their employees all claimed and successfully argued at the district court level that the definition of "social host" applied only to the service of alcohol in private settings. The district court agreed that "social host" could not apply to alcohol served in a liquor establishment. Effectively, the district court would have limited liability to the bars and servers of alcohol despite the true source and purpose of the alcohol.

The New Mexico Supreme Court disagreed following the law in numerous other states that hold liable not only the server of alcohol but also the person or in this case the

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company representatives who purchase the alcohol. The Court stated "We conclude that the Liquor Liability Act permits a cause of action against a social host who recklessly provides alcohol to a guest when the alcohol is consumed in a licensed establishment."

The Court agreed with the plaintiff's argument that these settings give "special control over their target business related guest..." In other words, the whole point of the exercise is to get the person intoxicated which in this case was quite successful. Ms. Gonzales got in her car over twice the legal limit of alcohol and 14 minutes later killed a young child.

The *Delfino* case is remarkable as much for the ruling that holds businesses and corporations responsible for long established and dangerous marketing practices as for the fact that each and every one of the three corporate pharmaceutical companies and their employees attempted and were first successful at evading completely their responsibility for the tragedy caused by those practices.

This evasion of responsibility for harms to the innocent is repeated time and time again by corporations each and every day, and as often as not, they are successful. And for holding them responsible, New Mexico has been labeled a judicial hellhole by the U.S. Chamber of Commerce and the American Tort Reform Association. That should tell you all you need to know about corporate responsibility.

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