

NEW MEXICO INJURY ATTORNEY BLOG

PUBLISHED BY
COLLINS & COLLINS, P.C.
ATTORNEYS AT LAW

April 12, 2010

Dram Shop Liability Issues Not Always Apparent

There have been a couple of recent decisions involving very large damage awards against bars for the drunken actions of their patrons. The cases fall under dram shop and premises liability laws that protect the visitors, patrons and customers of such drinking establishments. These case involved obvious dram shop and premises liability. Other cases of negligent or reckless service of alcohol may not be as obvious. This is particularly so in auto accident cases.

The Tennessee case of Maddy v. Ruby Tuesday Inc. involved a jury award of \$10 million. A poorly trained 21 year old bartender had served a patron 19 beers over a three hour period. The drunken patron ended the evening by smashing a beer mug in the face of another patron, severing the victim's carotid artery. The bartender testified that she did not recall seeing any corporate training videos prohibiting the service of any customer more than three drinks in an hour.

A Texas appellate court upheld a \$1.48 million verdict for damages related to a barroom brawl at the Del Lago Golf Resort & Conference Center. Much like the Tennessee case, the employees of the bar were clearly untrained or undertrained. The brawl involved a wedding party and a Sigma Chi fraternity reunion party. The problem for the defendant was that witnesses testified that the brawl had begun brewing hours before the actual fight broke out. Rather than address the problem, the bar's staff continued the heavy flow of liquor and then at the end of the evening herded both parties into the parking lot where the melee erupted.

Certainly, a bar cannot always be held responsible for the drunken behavior of its patrons. However, in cases like these where the bar actually creates the danger through the over-service of alcohol while ignoring possible dangers to other patrons, the bar will be held responsible for the damages resulting from the negligent behavior of its staff.

In fact, dram shop laws in most states, including New Mexico, require that bartenders and staff be trained to both detect and avoid the over-service of alcohol. The dangers of severe intoxication are well known, from the drunken bar brawls in these cases to the horrible DWI/DUI auto accidents that regularly result from the negligent service of alcohol at bars, restaurants and nightclubs.

**Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958**

<http://www.newmexicoinjuryattorneyblog.com/>

The severe injuries and deaths that occur as a result of negligent bartenders and waitresses are too numerous to count. In these cases, the negligence of the bars in question are obvious. However, in cases involving auto accidents, the injured persons or their surviving family members fail to or are unable to trace the accident back to these negligent or reckless practices. In late night auto accidents, the possibility of such negligence should be explored. Due to chronic level of underinsured drivers in New Mexico, the bar that began the train of events that led to the accident may be the only possible source of financial recovery for the injured or deceased person's damages.

**Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958**

<http://www.newmexicoinjuryattorneyblog.com/>