You Can Sue the Bar That Served You

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On June 1, 2011, a divided N.J. Supreme Court decided that drunken drivers may bring a lawsuit against bars or other establishments which negligently serve them when they are visibly intoxicated. The rules that allow this are known as the “Dram Shop” laws.

In the late 80’s, dram shop statutes were enacted which exposed bars and other entities which serve alcohol to l lawsuits by patrons or innocent third parties for serving individuals, who later became involved in motor vehicle accidents causing personal injuries, who would appear to a reasonable bar tender or server to be visibly intoxicated. Approximately 10 years later in 1997, a separate statute, in the area of automobile insurance law, was enacted by the N.J. Legislature which precluded personal injury lawsuits, making claims for economic or non-economic damages by individuals who either plead to or were convicted of drunken driving impermissible.

In a recent decision, the Supreme Court has interpreted these statutes as both being enforceable and consistent with legislative intent because the 1997 insurance statute was specific in precluding lawsuits by drunken drivers against other, theoretically innocent, third party drivers. The Court recently distinguished this situation from those lawsuits where a drunken driver brings a lawsuit against a bar or restaurant (and not an individual) claiming they were served after it should have been recognized that the person was visibly intoxicated.

To the casual reader, it may seem counterintuitive to allow someone who irresponsibly and voluntarily became intoxicated to bring a lawsuit against the bar. However, the Court reasoned that such a lawsuit could serve the greater good and was consistent with the purposes for which the Legislature enacted the dram shop statute. By defining limits of a bar’s exposure to liability, the Legislature was attempting to make available to bars and restaurants affordable liability insurance. The statute was also supposed to encourage techniques to be sought out, taught and implemented by bars with respect to training its employees to recognize when a person has had enough. The Court also reasoned

that in an additional effort to minimize alcohol related automobile accidents and injuries, the Legislature intended to allow suits both by drunk patrons and innocently injured third parties to make sure that bars were paying attention to patrons and understood that part of their job was not to allow service to those who were obviously and visibly intoxicated.

Finally, the recent decision emphasized that the 1997 insurance statute was enacted to reduce automobile insurance premiums at a time and in a state where automobile insurance costs were one of the highest in the country. The Court found that this goal of reducing the cost of insurance premiums to consumers was never intended to insulate bars and other entities which serve alcohol by not holding them responsible to evaluate the condition of its patrons before continuing to serve them drinks.

The Court reminds us that although a drunk driver may bring an action for personal injuries against an establishment which served him or her alcohol, if the matter goes to trial, the jury or judge in a bench trial will also evaluate and determine the proportionate responsibility and thus the amount of liability assessed against the intoxicated person for his or her role in engaging is such risky and reckless behavior in the first place.

When evaluating these issues carefully, you come to understand the wisdom of a court decision that at first glance seems devoid of common sense.

What do you think about this? Please feel free to comment below.