

## MEMORANDUM

**TO:** Dr. Deborah Allen, Senior Attorney.

**FROM:** Paralegal.

**DATE:** March 14, 2026

**RE:** *Mindy v. The Lucky Duck*; Assessment of Dram Shop Liability

---

### FACTS

Steven owns and operates a commercial bar called The Lucky Duck, which employs five bartenders and a weekend security guard. The bar provides training to its employees on mixing drinks and general employment issues, and it posts the phone numbers for local cab companies in its restrooms.

On a Saturday night, Michael visited The Lucky Duck with a group of friends to celebrate a recent job promotion. Over the course of the evening, the group ordered rounds of shots and large beers from all five on-duty bartenders. By 1:00 a.m., Michael was visibly staggering when he approached the bar. One of the bartenders, Melissa, observed his condition and informed Michael that it was his "last round."

After consuming that beer, Michael had his friend approach a different bartender, Sally, to purchase another beer on his behalf. Sally sold the beer to the friend, which Michael then drank. Shortly after finishing this final drink, Michael left the bar. As Michael walked toward the parking lot, the bar's security guard watched him and muttered, "what a drunk."

While driving home, Michael ran a stop sign and collided with a vehicle driven by Mindy, a nurse who was driving home from a late shift at a local hospital. The collision caused Mindy to suffer severe injuries, including a concussion, fractured ribs, internal bleeding, a broken arm, and severe

lacerations to her face and hands. Mindy incurred substantial medical bills and was forced to take several months off work to recover. Michael subsequently lost his job and is deeply in debt.

### **ISSUE(S) PRESENTED**

Under the Minnesota Civil Damages Act, whether a commercial liquor vendor can be held liable for injuries to an innocent third-party motorist when the vendor's staff continued to serve alcohol via a proxy purchaser to a patron who was visibly staggering, and that patron subsequently ran a stop sign and caused a motor vehicle collision.

### **BRIEF ANSWER**

Yes. The Lucky Duck will highly likely be held liable for Mindy's injuries. The bar's staff made an illegal sale by continuing to serve alcohol, through a proxy, to a patron who was exhibiting obvious physical signs of intoxication. This final sale contributed to the patron's severe intoxication, which was the direct and proximate cause of the plaintiff's injuries when he negligently drove through a stop sign and crashed into her vehicle. As an innocent third party, Mindy is expressly protected by the Act and can recover for her bodily injuries and lost wages.

### **ANALYSIS**

Minnesota's Civil Damages Act, commonly known as the Dram Shop Act, provides a right of action to an innocent third party who is injured in person, property, or means of support by an intoxicated person. The action may be brought against a commercial vendor who illegally sold the alcoholic beverages that caused or contributed to the intoxication. *See* Minn. Stat. § 340A.801. To succeed in a Dram Shop claim, a plaintiff must prove four elements: (1) an illegal sale of intoxicating liquor; (2) the sale caused or contributed to the intoxication; (3) the intoxication was a direct, proximate cause of the plaintiff's injuries; and (4) the plaintiff sustained recoverable damages. *Rambaum v. Swisher*, 435 N.W.2d 19, 21 (Minn. 1989).

First, Mindy can demonstrate that The Lucky Duck made an illegal sale. A sale is illegal when a commercial vendor sells alcohol to an "obviously intoxicated" person, which occurs when the seller, using reasonable observation, can see or should see that the patron has lost control of their physical or mental faculties. *Mjos v. Village of Howard Lake*, 178 N.W.2d 862, 867 (Minn. 1970). Here, Michael was actively staggering, providing clear physical evidence of obvious intoxication that satisfies the *Mjos* standard. In fact, Melissa acknowledged his impairment by cutting him off, and the security guard noted he was a "drunk." A counterargument might be raised that the bar should not be liable since the final purchaser was Michael's friend, not Michael himself. However, a transaction is still a "sale" under the Act even if a third party pays for the drinks. *Fette v. Peterson*, 404 N.W.2d 862, 866 (Minn. Ct. App. 1987). Because the bar's staff failed to prevent this evasion, the final beer constitutes an illegal sale. Furthermore, because The Lucky Duck is a commercial vendor, it is strictly subject to the Act and does not benefit from the social host immunity discussed in *Koehnen v. Dufuor*, 590 N.W.2d 107 (Minn. 1999).

Second, the illegal sale of the final beer contributed to Michael's overall level of intoxication. The law does not require the illegal sale to be the *sole* cause of intoxication; it is sufficient that the illegally sold alcohol combined with other alcohol to contribute to the patron's impairment.

Third, the intoxication must be the direct, proximate cause of the injury. *Hastings v. United Pac. Ins. Co.*, 396 N.W.2d 682, 684 (Minn. Ct. App. 1986). In *Hastings*, proximate cause failed because the intoxicated driver stayed in his own lane and did not drive negligently. Our facts are sharply distinguishable: Michael actively ran a stop sign, directly linking his impaired state to the severe collision with Mindy. The facts are also distinguishable from *Kunza v. Pantze*, 527 N.W.2d 846 (Minn. Ct. App. 1995), where a passenger jumped from a moving vehicle. Mindy was an innocent driver proceeding lawfully in her own vehicle, making the causal chain unbroken and direct.

Fourth, Mindy is the proper plaintiff and has suffered recoverable damages. The Dram Shop Act strictly prohibits the intoxicated person from suing the vendor for their own injuries resulting from voluntary intoxication. *Robinson v. Lamott*, 289 N.W.2d 60, 62 (Minn. 1979). However, Mindy is exactly the type of innocent third party the statute was designed to protect, which legally distinguishes her from the plaintiff in *Robinson*. Mindy suffered severe bodily injuries—including fractured ribs, internal bleeding, and a broken arm—and lost several months of wages, all of which constitute recoverable pecuniary and bodily damages under the Act.

### **CONCLUSION**

Mindy has an exceptionally strong probability of prevailing in a Dram Shop action against The Lucky Duck. The facts clearly demonstrate that the bar's staff violated the statute by consummating a sale of alcohol to Michael when he was visibly staggering and obviously intoxicated. The bar is unlikely to succeed in arguing that the proxy purchase shields them from liability, nor can they reasonably dispute the direct causal link between Michael's severe intoxication and his negligent act of running a stop sign. Because Mindy is an innocent third party who suffered legally recoverable injuries directly resulting from this illegal sale, the court will likely hold The Lucky Duck liable for her damages.