

RE: Liability Assessment of The Lucky Duck Under Dram Shop Laws

Facts

Steven owns a bar called The Lucky Duck, which employs five bartenders and a weekend security guard. As a safety measure, the bar has posted signs in the restrooms providing phone numbers for local cab companies in the event patrons are too intoxicated to drive. One Saturday night, a patron named Michael and his friends consumed rounds of shots and large beers to celebrate a promotion. By 1:00 a.m., Michael was physically staggering, prompting one of the bartenders, Melissa, to inform him it was his "last round". After finishing that drink, Michael had a friend purchase another beer for him from a different bartender, Sally. Upon Michael's departure, the security guard observed his behavior and muttered "what a drunk". While driving home, Michael ran a stop sign and collided with Mindy's vehicle, causing her severe injuries that forced her to take several months off from work and resulted in substantial hospital bills.

Issue(s) Presented

Whether The Lucky Duck bar can be held liable under Minnesota's Dram Shop Act for Mindy's severe injuries after its bartenders served alcohol, via a proxy, to an intoxicated patron whose subsequent negligent driving caused a collision, despite the bar having posted cab signs and one bartender having previously refused him service.

Rule

To establish liability under the Minnesota Civil Damages Act (Dram Shop Act), Minn. Stat. § 340A.801, a plaintiff must prove four elements: (1) an illegal sale of intoxicating liquor occurred; (2) the violation was substantially related to the purposes of the Act; (3) the intoxication was a direct cause of the plaintiff's injuries; and (4) the plaintiff sustained recoverable damages.

Under the modern statutory standard in Minnesota, it is an illegal sale to provide alcoholic beverages to an "intoxicated" person. The *Mjos* standard emphasizes that a vendor has an

affirmative duty of *active observation* to determine if a patron has lost control of their mental or physical faculties, rather than merely requiring them to notice "obvious" intoxication.

Finally, the causation element requires a "practical and substantial relationship" between the illegal sale and the consumption of the liquor by the individual whose intoxication caused the damage. The illegally sold alcohol does not need to be the sole cause; it is sufficient if it combines with other intoxicants to be a concurring or proximately contributing cause.

Analysis

Applying the *Rambaum* framework to our facts, Mindy can easily demonstrate that she suffered severe damages and that Michael's extreme intoxication directly caused him to run a stop sign and crash into her vehicle. The crux of our analysis rests on whether the final sale by Sally was an "illegal sale".

When we analyze the facts under the *Mjos* standard, it is clear Michael was intoxicated prior to the final sale. Michael was visibly staggering, which is a highly visible manifestation of a loss of physical control. Under the duty of active observation, his condition was so readily apparent that both bartender Melissa and the security guard explicitly recognized his intoxicated state.

The defense will likely raise several arguments to defeat liability, pointing to the bar's posting of cab signs in its restrooms and Melissa's active refusal of service. However, these facts do not absolve the bar. Restroom signage does not waive a commercial vendor's strict statutory duty not to serve intoxicated patrons. Furthermore, while Melissa's cutoff demonstrates that active observation successfully revealed Michael's impairment, the bar still failed its duty when a different bartender, Sally, completed a sale to Michael's friend. Because any employee exercising active observation should have seen he was intoxicated, Sally's subsequent sale of a beer for Michael's consumption constituted an illegal sale.

Applying the *Trail* rule swiftly defeats the potential defense that Sally sold the beer to Michael's friend rather than to Michael directly. Because Michael immediately received and drank the beer on the premises, an unbroken, practical, and substantial relationship exists between the illegal sale and his consumption. This final illegally sold beer combined with his earlier drinks to act as a concurring and contributing cause of his final level of intoxication.

The defense may also argue that Michael's independent negligence in running the stop sign is an intervening cause that defeats liability. However, Michael's negligent traffic violation is a direct, foreseeable consequence of his severe intoxication, not an independent superseding event that severs the causal chain. Therefore, the bar cannot shield itself from liability merely because the last drink was handed to a friend, because it posted cab signs, or because of the patron's independent negligence.

Conclusion

The Lucky Duck bar will likely be held liable for Mindy's injuries. By serving a patron whose staggering behavior made his intoxication evident to a reasonable employee exercising active observation, the bar's staff committed an illegal sale. The bar's additional defenses—including the proxy sale, restroom signage, a prior cutoff, and the patron's independent negligence—are insufficient to break the causal chain. Because that illegally sold alcohol practically and substantially combined with his earlier drinks to cause the intoxication that led to the car crash, Mindy can successfully satisfy all elements of a Dram Shop cause of action against the bar.