Legal Ease: Impaired Driving

It was a Friday night, and Bill was ready to do some serious partying. There was a social to attend, but first Bill figured that he and Ted would get themselves in a 'proper mood' for the evening.

The Mountaintop Pub seemed a good place to start, and Bill and Ted had a steak and several draft each. "I'm fine to drive, so let's go over to Darlene's before we go to the social," Ted suggested. A few friends were already at Darlene's and Bill and John had a few beers 'just to be sociable.' Now in the proper mood and certainly too drunk to drive, Bill and John headed over to the social.

It was a complete bomb, but at least it was a "beat the clock" evening with triples starting at $1.00 for the next fifteen minutes. They both had a triple and a few beers before they pronounced the social a disaster and decided to head off to the Metropolitan Club.

"You okay to drive?" Bill asked Ted.

"I'd probably just get a 24 hour suspension," Ted said.

The bartender at the Metropolitan dutifully served the two the drinks they requested. Deciding that the Met was as bogus as ever, the two headed home.

Only one of them made it home. Bill made it into the hospital instead, and will leave only in a wheelchair - permanently. The passengers in the other car weren't as lucky.

Of course drinking and driving is a crime, but that is not the issue that this column is going to discuss. We all know that Ted is going to get charged for impaired driving, and possibly dangerous driving and criminal negligence too. The question is who is going to pay for the deaths of the people in the other car, as well as the permanent disability of bill?

Ted was the intoxicated driver, so we know that he is probably on the hook for the accident and its results. But Ted's insurance company is going to look for other culprits to reduce its losses.

And Ted's insurance company will probably find them too. Traditionally, the law did not require that establishments such as bars or hosts of a party control the conduct of people, except while they were actually on the premises. Now after a series of important court decisions, the law says that providers of alcohol have a legal duty not to serve customers past the point of intoxication. If they do, they can be held partially liable for the conduct of the intoxicated person.

So the question is: Who served Ted past the point of intoxication? Ultimately this is an evidentiary problem for the courts - but what you should know is this: the holder of the social (Bar Services and the residence); Darlene (which could mean you) and the Metropolitan Club are all possibly liable to varying degrees to the victims of the accident. You should note that a person need not appear drunk to be dangerously intoxicated. The issue is not whether or not you knew he was intoxicated - it is rather an issue on whether you ought to have known he was intoxicated and that you served him anyway.

Clearly, this is a major issue to all students at this university. Was there ever an instance when you knew a person was drunk and yet gave him or her a beer anyway? The social pressure to provide your friends with alcohol at a social function may be enormous - but you should also realize that the legal implications of serving alcohol are also enormous.

In order to combat this problem, providers of alcohol are now being encouraged to set up and participate in programs that are designed to promote awareness of alcohol and its effects on the body as well as the legal issues. In New Brunswick, the Alcohol and Drug Dependency Commission has responded to the problem by introducing the Responsible Beverage Service Program. This program covers topics such as: tips on preventing intoxication, managing intoxicated patrons and the risks of civil liability.

The bartenders employed by Campus Bar Services are required to take this course which is offered by the New Brunswick Community College. The ultimate purpose of the program is to prevent alcohol related problems for both servers and drinkers.

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