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## **YOU AND THE LAW** **NEGLIGENT BARS FACE** **LIABILITY for CAR ACCIDENTS**

Bars, pubs and other enterprises that make money serving alcohol must try hard to prevent predictable injury. If they don't, a court may order them to pay big dollars to an injured victim.

Say you get seriously hurt in a drunken fight in a night club, and staff didn't take any steps to break it up. The club may well face liability. Or if you've had too much to drink and you're allowed to walk home alone, and you get struck walking into the path of a car, the pub that didn't take steps to ensure you got home safely may be blamed.

The saddest cases have to do with drunk driving that causes very serious injuries. A recent case in BC illustrates such a tragedy, where a "commercial host" was partly responsible.

Dan and Lisa were sitting in her Honda, which Dan had parked on the unpaved shoulder when it ran out of gas at night. They were rear-ended violently by a Ford Explorer driven by Cliff, who was very drunk. The crash left the Honda a "compressed mass of twisted metal." Though Lisa was wearing her seat-belt, the crash left her a quadriplegic.

It turned out that Cliff had gone to a nearby pub that afternoon to "hang out" and play pool. He stayed several hours, drinking double (2oz.) whiskey-and-waters.

Two servers had taken turns serving him. The first one said he seemed fine but was getting a bit of a buzz on by the time she left at 7 pm. The second one saw that his tab showed three or four double whiskeys already, but served him three more on her shift before he left the pub around 9:45 pm without eating. She didn't try to cut him off or stop him from getting into a car and driving. A breath sample indicated Cliff's blood alcohol level was between 0.147 and 0.167 at the time of the crash.

BC's appeal court decided that the pub's actions were a contributing cause of the accident and fixed the pub's liability at 20%. Putting responsibility on "commercial hosts" is meant to act as a "deterrent," said the court, to keep them from focussing purely on maximizing liquor sale profits – a tool to motivate them to keep drunk drivers off the road.

There's another key point. In BC, if more than one person is at fault ("contributorily negligent"), each is fully liable to the victim. So in a catastrophic drunk driving case, the establishment may be on the hook for millions of dollars to accident victims. And it may not be able to recoup anything from an uninsured drunk driver, even if the driver is primarily to blame, if the driver has no assets. More good reason for "commercial hosts" (and their insurers) to make sure they put policies in place to try and avoid fault.

If you or someone you know has been hurt, and alcohol served at a bar or lounge may have played a role, promptly seek competent legal help.

*This column has been written by Janice Mucalov, LL.B. with assistance from FABRIS MCIVER HORNQUIST & RADCLIFFE. It provides information only and must not be relied on for legal advice. Please contact FABRIS MCIVER HORNQUIST & RADCLIFFE for legal advice concerning your particular case. Lawyer Janice Mucalov is an award-winning legal writer. YOU AND THE LAW is a registered trade-mark. © Janice Mucalov*



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