

Dram Shop 101



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1

Dram Shop: What Can Happen



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2

The Law: *20801, Inc. v. Parker*



3

Plaintiff's Initial Burden

“Negligence” as to the Dram Shop Defendant means providing, under authority of a license, an alcoholic beverage to a recipient when it is apparent to the Dram Shop Defendant that the recipient is obviously intoxicated to the extent that he presents a clear danger to himself and others.

Source: Texas PJC 5.5 Definition of Negligence Under the Dram Shop Act

4

The Intoxication Must Be:

- 1. Obvious to the server;**
- 2. When the recipient was served; and**
- 3. To the extent that the recipient presented a clear danger to himself and others.**

Source: Texas Alcoholic Beverage Code § 2.02 (b) (1)

5

The Blood Alcohol Level

Memorial Hermann Emergency Department Report

EMERGENCY DEPARTMENT CLINICAL SUMMARY

BUN: 7 mg/dL - Normal range between (7 and 20)
Calcium Lvl: 8.6 mg/dL - Normal range between (8.5 and 10.5)
Chloride Lvl: 104 mEq/L - Normal range between (95 and 108)
CO2: 21 mEq/L - Normal range between (24 and 32)
Creatinine Lvl: 4 mg/dL - Normal range between (0.5 and 1.4)
Hgb (m): 27g
Hct (m): 37%
Plat: 279 x10⁹/L
Glucose Lvl: 147 mg/dL - Normal range between (70 and 99)
Potassium Lvl: 4.2 mEq/L - Normal range between (3.5 and 5.1)
Lactic Acid Lvl: 4.0 mL/dL - Normal range between (0.5 and 2.2)
Sodium Lvl: 130 mEq/L - Normal range between (133 and 145)
eGFR: mL/min/1.73m²

Hematology:
10/10/14 05:30 PM
R-Ret: 0.8 minutes - Normal range between (0.4 and 0.7)
K-Index: 1.4 minutes - Normal range between (0.5 and 2.1)
Angle: 73 degrees - Normal range between (64 and 80)
Max Amp: 60 mm - Normal range between (52 and 71)
G-value: 9.5 K dL - Normal range between (5.0 and 11.6)
ACT (TEG): 126 seconds - Normal range between (86 and 118)
Estimated % Lytic: 0.0% - Normal range between (0.0 and 7.8)
Split Point: 0.7 minutes
Tape TEG Sample Type: Citrated Whole Blood
10/10/14 04:48:00
Basophils: 0.0% - Normal range between (0.0 and 1.0)
Eosinophils: 0.0% - Normal range between (0.0 and 4.0)
Hct: 40.2 percent - Normal range between (42.0 and 54.0)
Hgb: 14.6 g/dL - Normal range between (14.0 and 18.0)
Lymphocytes: 5.1% - Normal range between (20.0 and 40.0)
MCV: 30.3 pg - Normal range between (27.0 and 31.0)
MCHC: 34.4 g/dL - Normal range between (32.0 and 36.0)
MCV: 94.9% - Normal range between (80.0 and 94.0)
Monocytes: 4.3% - Normal range between (2.0 and 10.0)
MPV: 5.1% - Normal range between (7.4 and 10.4)
Platelet: 220 KCM/L - Normal range between (133 and 450)
Segs: 88.6% - Normal range between (47.0 and 78.0)
RBC: 4.44 MCM/L - Normal range between (4.70 and 16.10)
RBC Morph: Normal
RDW: 12.8% - Normal range between (11.5 and 14.5)
WBC: 21 KCM/L - Normal range between (3.7 and 86.4)
Wbc-Bands: # 17.8 KCM/L - Normal range between (1.0 and 11.0)
WBCs: # 1.2 KCM/L - Normal range between (0.0 and 5.5)
Monocytes: # 0.9 KCM/L - Normal range between (0.0 and 5.5)
Eosinophils: # 0.0 KCM/L - Normal range between (0.0 and 0.5)
Neutrophils: # 0.1 KCM/L - Normal range between (0.0 and 0.2)

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6

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