

HDBD Partners Darrell Barger, Brian Rawson, and Stephanie Roark Obtain Complete Defense Jury Verdict in Dram Shop Trial

AUSTIN, TX - [Darrell Barger](#), [Brian Rawson](#), and [Stephanie Roark](#) obtained a complete defense verdict on behalf of a publicly traded hospitality company in a Dram Shop and negligent undertaking trial before U.S. Magistrate Judge Andy Austin in the Western District of Texas, Austin Division. Mr. Barger is a partner in the firm's Corpus Christi and Houston offices, and Mr. Rawson and Mrs. Roark are partners in the Dallas office.

Plaintiff, through her attorneys Broadus Spivey and Dicky Grigg of Austin, Texas, claimed that on March 21, 2014, employees of a nightclub encouraged her 44-year-old son, Slade Sullivan, to come to the club for a night of partying and drinking with the promise that they would give him a ride home at the end of the night. Plaintiff alleged that when her son arrived at the club, an employee took his car keys so he did not have to worry about driving. After running up a \$400 bar tab and a blood alcohol content ("BAC") of .24 (three times the legal limit to operate a vehicle in Texas), Plaintiff claimed the nightclub returned Sullivan's keys and called the police on him when it appeared he was going to attempt to drive. The police arrived within two minutes and surrounded Sullivan's vehicle. After Sullivan ignored numerous requests by the police to turn off and exit his vehicle, the officers forcefully removed him, which resulted in Sullivan fracturing his back in three places and rendering him a paraplegic. The next week, while Sullivan was having surgery, he went into cardiac arrest and the medical staff fractured his back further while conducting chest compressions. Sullivan survived the surgery but was a ventilator dependent quadriplegic due to his spinal cord being transected during CPR. Sullivan lived for more than five months in the hospital on a ventilator and incurred over \$2 million in medical expenses before passing away. Plaintiff's counsel argued that based on the BAC extrapolation, Sullivan was likely served alcohol when it was apparent that he was obviously intoxicated, that the nightclub undertook a duty by promising to get Sullivan home safely, and the club failed to honor that promise by returning his keys. Plaintiff's counsel asked the jury to award more than \$10 million for the death of Sullivan, who was Plaintiff's only child.

The defense responded by arguing that this unfortunate incident occurred because a 44-year-old man made a choice to drink and then refused numerous offers for a safe ride. Further, when police were called to assist in the situation and protect the general public, Sullivan ignored their requests and was injured as a result. The club showed that due to Sullivan's history of drinking and high tolerance for alcohol, Sullivan did not appear obviously intoxicated to anyone at the club when he was actually served alcohol, and Sullivan was only served four drinks, despite his high bar tab. Further, the club's management satisfied any duty it had by offering Sullivan: (1) a free cab ride home; (2) then a free hotel room across the street; and (3) then a ride home in the club's SUV. Sullivan refused all of these offers and claimed that he only needed his keys to charge his cell phone to call a friend for a ride. Despite the security guard's warning that police would be called if he started his vehicle, Sullivan ignored that warning and police were called to assist. Defense counsel argued that Sullivan's subsequent interaction with the police was an unforeseeable new and independent cause that resulted in his injuries and death.

After a one week trial, the jury unanimously agreed with the HDBD trial team, finding that Plaintiff did not meet her burden of proving that Sullivan was served while obviously intoxicated or that the nightclub was negligent in returning Sullivan's keys to him. The jury of five women and three men returned a complete defense verdict after 30 minutes of deliberations.



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