

Missouri Lawyers WEEKLY

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Settlement reached in dram shop suit

Defendant was visibly intoxicated when served



James G. Krispin

suit with a woman the man hit while driving home.

The 52-year-old plaintiff was walking home from her part-time job at Target in Belton on Dec. 30, 2007. She was crossing state Highway 58 when the vehicle hit her.

The plaintiff sustained a severe injury to her right lower extremity, requiring an eight-day hospital stay. She also suffered a mild head injury. She incurred medical expenses of \$132,552.

In a separate claim, the driver of the vehicle settled with the woman for his combined policy limits of \$150,000.

The driver had met some friends at the defendant's establishment at about 5:30

p.m. During the evening, he drank five 16.9 ounce "Stella" beers, one shot of tequila and, before he left at about 8 p.m., an "Irish car bomb" containing beer, whiskey and Irish cream, according to the police report.

"There was some evidence that the driver's demeanor changed over the course of the evening and that he walked with a heavy step on multiple trips to and from the restroom," said the plaintiff's lawyer, James G. Krispin.

After he hit the woman, he was arrested and charged with driving while intoxicated and was found to have a blood alcohol content of .199 percent. He pleaded guilty and received a suspended im-

position of sentence.

The plaintiff alleged the driver was served intoxicating beverages after he was "visibly intoxicated" as defined by RSMo. 537.053.

"The bar should not serve someone who is visibly intoxicated, but the burden is on the plaintiff," Krispin said. "There must be clear and convincing evidence."

The defendant alleged the plaintiff's comparative fault in crossing a state highway, not within a crosswalk, and in wearing dark clothing at night, with poor lighting.

The defendant's attorney, Leslie Gelhar, could not be reached for comment.

— Cathy Kingsley

An establishment that served alcohol to a visibly intoxicated man settled a law-

Confidential settlement

DRAM SHOP VIOLATION

■ **Case Number/Date:** Confidential/April 14, 2010

■ **Court:** Jackson County Circuit Court

■ **Mediator:** Bob Horn

■ **Plaintiff's Experts:** Terry T. Martinez, St. Louis (toxicologist); Dr. Jason Mlnarik, Kansas City (treating orthopedic surgeon); Dr. Janice Scott, Lenexa, Kan. (psychiatrist); Dr. Woody Harlan, Lee's Summit (neurologist)

■ **Defendant's Experts:** Dr. Chris Fevurly, Lawrence, Kan. (internal medicine); Patrick Caffrey, Kansas City (psychologist); Curtis Klaasen, Kansas City, Kan. (toxicologist); Michael Selves, Papillion, Neb. (accident reconstruction)

■ **Caption:** Confidential v. confidential

■ **Plaintiff's Attorneys:** James G. Krispin and Paul T. Krispin Jr., St. Louis

■ **Defendant's Attorney:** Leslie Gelhar, Donna Law Firm, Minneapolis