

Contact

Houston

1200 Smith Street, Suite 1400
Houston, Texas 77002-4310
Tel: 713.658.1818
Fax: 713.658.2553

Atlanta

191 Peachtree Street, N.E.,
Forty-Sixth Floor
Atlanta, Georgia 30303
Tel: 404.659.1410
Fax: 404.659.1852

Philadelphia

300 Conshohocken State Road
Suite 570
West Conshohocken, PA 19428
Tel: 610.772.2300
Fax: 610.772.2305

San Antonio

112 East Pecan Street, Suite
1450
San Antonio, Texas 78205
Tel: 210.253.8383
Fax: 210.253.8384

Chamberlain Hrdlicka Team Prevails in Texas Dram Shop Act Case Before Texas Supreme Court

April 11, 2025

Houston

On April 11, the Supreme Court of Texas delivered the opinion in favor of a Chamberlain Hrdlicka client, a restaurant establishment, following arguments on January 13, 2025, related to a Texas Dram Shop Act matter the court stated it had not previously addressed. Specifically, what evidence is legally sufficient to establish liability under the Act's onerous burden of proof? The ruling granted summary judgment for the client and reversed the court of appeals judgment, reinstating the trial court's summary judgment in the client's favor.

In November 2018, an incident occurred when a patron consumed an amount of alcohol at the establishment and later was involved in a vehicle accident with another individual, resulting in a lawsuit filed by the plaintiff under the Texas Dram Shop Act. The trial court granted summary judgment in favor of the establishment, finding there was no evidence to prove that it was apparent to the establishment that the patron was obviously intoxicated to the point of danger at the time the provision of alcohol occurred.

In granting summary judgment, the trial court considered the fact that the plaintiff offered no evidence of how the patron appeared while at the establishment. In contrast, the establishment's evidence included testimony from the patron that he was acting normal at the establishment—no slurred speech, blood-shot eyes, and no trouble walking. The patron's companion likewise testified that he appeared normal, so much so that she and the patron had no reservations about him driving. While the trial court granted summary judgment, the Fifth District Court of Appeals in Dallas reversed this decision in July 2023, believing that there was enough circumstantial evidence and prompting the Texas Supreme Court to grant review.

In reversing the Court of Appeals on April 11, the Texas Supreme Court held: Viewing this evidence in the light most favorable to [the plaintiff], we have no trouble concluding that some evidence supports a finding that [the patron] was intoxicated after the crash and that he exhibited signs of intoxication at that point. We can also infer from the BAC test results that he consumed a large amount of alcohol at some point before the crash and was even perhaps intoxicated to some extent at [the establishment] on November 29. But this evidence does not support a finding that it was apparent to [the establishment] that [the patron] was intoxicated let alone that he appeared to be so obviously intoxicated as to present a clear danger.

Under the Texas Dram Shop Act, a provider of alcohol is not liable for a vehicle accident caused by its patron unless the plaintiff proves that, the provider served the

Chamberlain Hrdlicka Team Prevails in Texas Dram Shop Act Case Before Texas Supreme Court, Continued

customer when it was apparent to the provider that the customer was obviously intoxicated to the extent that he presented a clear danger to himself and others. The Supreme Court of Texas found that, while there was evidence that the patron was intoxicated the day of the accident, the evidence did not prove that the patrons intoxication was apparent to the establishment at the time of service.

Steven J. Knight, Chair of Chamberlain Hrdlickas Appellate Section, represented the establishment on appeal, along with Associate AmyJo Foreman. Jeff Odea of Fahl & Donaldson, PLLC represented the establishment in the trial court.

We are pleased the court reinstated the trial courts summary judgment after lengthy and difficult proceedings for our client, said Knight. Today, justice was upheld, with the Texas Supreme Court construing the Dram Shop Act as written by the Texas Legislature.