

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

MATTHEW WOOD, as surviving spouse of)
SUSAN WOOD, deceased,)

Plaintiff,)

vs.)

CHATTANOOGA BILLIARD CLUB, INC.,)
JEREMY A. LANE and GARY K. BOND,)

Defendants.)

FILE COPY

DOCKET NO. 10C362

DIVISION _____

JURY DEMAND

FILED IN OFFICE
2010 MAR -9 PM 3:55
PAULA T. THOMPSON, CLERK
BY *[Signature]*

COMPLAINT

COMES NOW Plaintiff, Matthew Wood, as surviving spouse of Susan Wood, deceased, and files this Complaint against Defendants, Chattanooga Billiard Club, Inc., Jeremy A. Lane and Gary K. Bond, stating as follows:

THE PARTIES

1.

Plaintiff Matthew Wood is the surviving spouse of Susan Wood, deceased.

2.

Plaintiff is a resident of Hixson, Tennessee.

3.

Defendant Chattanooga Billiard Club, Inc. (hereinafter "Billiard Club") is a Tennessee corporation and may be served with process through its registered agent, Phil Windham, 725 Cherry Street, Chattanooga, Tennessee 37402.

4.

Defendant Jeremy A. Lane (hereinafter "Lane") is an individual residing at 3117 Olde Towne Lane, Chattanooga, Tennessee 37415

5.

Defendant Gary K. Bond (hereinafter "Bond") is an individual residing at 3117 Olde Towne Lane, Chattanooga, Tennessee 37415.

6.

Jurisdiction is proper with this Court.

7.

Venue is proper with this Court.

FACTUAL ALLEGATIONS

8.

On December 22, 2009 Lane drove his vehicle to work at the Billiard Club where he was employed.

9.

Billiard Club knew that Lane drove to work on December 22, 2009.

10.

Lane remained at work and on the premises of his employer, the Billiard Club through the early morning hours of December 23, 2009.

11.

At approximately 3:00 a.m., if not before, on December 23, 2009, Lane, along with his co-employees, with the full knowledge of his supervisor at the Billiard Club, began to drink alcoholic beverages, including beer.

12.

The alcoholic beverages consumed were available and provided by the Billiard Club to its employees, including Lane.

13.

The Billiard Club made the alcoholic beverages available to its employees free of charge on its premises.

14.

The drinking of alcohol provided by the Billiard Club on December 23, 2009 by employees at the Billiard Club was known to management at the Billiard Club.

15.

The drinking of the alcohol by Billiard Club employees provided by the Billiard Club on occasions prior to December 23, 2009 at the Billiard Club premises was known to the management of the Billiard Club.

16.

The drinking of alcohol provided by the Billiard Club to employees at the Billiard Club premises was condoned and even encouraged by management at the Billiard Club.

17.

Management of the Billiard Club encouraged this behavior of drinking on the Billiard Club premises by its employees in the furtherance of its business and to its economic advantage to retain employees who accepted this "benefit" of free alcohol supplied by their employer.

18.

On December 23, 2009, Lane became intoxicated by consuming alcohol provided by his employer, the Billiard Club, on the Billiard Club premises with his co-employees.

19.

Due to his intoxicated state, at the time Lane left the premises of the Billiard Club, Lane was unable to safely and properly operate a motor vehicle.

20.

At the time Lane left the Billiard Club premises in his vehicle on December 23, 2009 he was noticeably, visibly and clearly intoxicated.

21.

Just prior to 7:00 a.m. the obviously intoxicated Lane left the premises of his employer driving his Nissan 240 SX.

22.

At approximately 7:00 a.m. on December 23, 2009, Susan Wood was parking her vehicle at her place of work, preparing to walk to her office building.

23.

Susan Wood proceeded to cross East Fourth Street in order to get to her office building.

24.

At approximately 7:10 a.m. on December 23, 2009, having just left the Billiard Club, Lane struck Susan Wood with his vehicle ("the collision) while she was crossing East Fourth Street near its intersection with Walnut Street.

25.

Susan Wood suffered injuries due to the collision and ultimately died at approximately 12:00 p.m. on December 23, 2009.

26.

After the collision with Susan Wood with his vehicle, knowing he had struck her, Lane chose not to stop his vehicle.

27.

Lane proceeded to drive away from the scene to North Market Street in Chattanooga.

28.

Lane parked his car at an apartment complex parking lot on North Market Street.

29.

Lane then falsely reported to police that he had been "carjacked."

30.

The police responded to Lane's fabricated "carjacking" complaint and spoke to Lane.

31.

Lane admitted to the police to having consumed alcohol prior to driving his vehicle the morning of December 23, 2009.

32.

On the morning of December 23, 2009, Lane could not provide specifics of his reported "carjacking" event to the police.

33.

Lane told the police officer at the time that he was "too drunk" to provide details of the fabricated "carjacking" event.

34.

At the time of the incident, Lane resided at 3117 Olde Towne Lane, Chattanooga, Tennessee.

35.

At the time of the incident, Defendant Bond resided at 3117 Olde Towne Lane, Chattanooga, Tennessee.

36.

At the time of the incident, Defendant Bond was the head of the household at 3117 Olde Towne Lane where he and Lane resided.

37.

The vehicle driven by Lane on December 23, 2009 was maintained by Defendant Bond as head of the household.

38.

The vehicle driven by Lane, maintained by Bond, was for the purpose of providing pleasure and comfort for Bond's family.

39.

At the time of the incident, Lane was using the vehicle in furtherance of said purpose with the knowledge and permission of Bond.

40.

As a matter of public policy the actions of Lane are imputed to Bond, the head of the household.

COUNT I. – LANE

41.

Lane negligently operated his vehicle on December 23, 2009 by striking Susan Wood who was legally and properly walking in the crosswalk with the right of way.

42.

Lane is guilty of negligence per se by violating applicable Tennessee statutes, including driving under the influence and vehicular homicide on December 23, 2009.

43.

Lane also failed to yield the right of way, was speeding and was reckless in the operation of his vehicle on December 23, 2009.

44.

Susan Wood was not negligent in her manner or method of crossing the street on December 23, 2009.

45.

Susan Wood did not cause or contribute in any way to her injuries and death.

46.

As a direct and proximate result of Lane's negligence and negligence per se, Susan Wood was injured and ultimately died.

COUNT II. – CHATTANOOGA BILLIARD CLUB

47.

Billiard Club owed a duty of reasonable care to Susan Wood, deceased.

48.

Billiard Club owed a duty of reasonable care to Susan Wood for her protection against unreasonable risk of harm to her.

49.

Billiard Club had a "special relationship" with Lane in that Billiard Club was Lane's employer.

50.

Billiard Club had a "special relationship" with Lane in that Billiard Club was the property owner and business operator at the Billiard Club premises where Lane was employed and drinking on December 22 and 23, 2009.

51.

Billiard Club had a duty of reasonable care to Susan Wood to control the conduct of Lane so as to prevent Lane from injuring Susan Wood.

52.

Billiard Club had the duty to act reasonably under the circumstances to protect Susan Wood from unreasonable risks of harm.

53.

Billiard Club was fully aware and even encouraged its employees to consume "free" alcoholic beverages provided by Billiard Club at the Billiard Club premises both on and before December 23, 2009.

54.

Billiard Club knew that Lane and the other drinking employees drove to work on December 22, 2009.

55.

It was foreseeable and probable that harm or injury would occur to persons such as Susan Wood, given the actions of Billiard Club in providing free alcohol to its employees on its premises.

56.

Billiard Club knew that Lane and other employees had become intoxicated at the Billiard Club premises prior to December 23, 2009 and then driven their cars.

57.

Billiard Club management, agents and employees knew and/or should have known that Lane was intoxicated on December 23, 2009 when Lane left the Billiard Club premises in his vehicle.

58.

Billiard Club had alternative, safer conduct available to it, including not encouraging and/or allowing employees to drink at the Billiard Club premises or at least providing alternate forms of transportation for its intoxicated employees who were likely to operate a motor vehicle.

59.

The conduct of Billiard Club and its employees as described herein had no social value or importance.

60.

It was foreseeable that when and if Billiard Club provided the "free" alcohol to its employees that an employee could become intoxicated.

61.

It was foreseeable that if and when an intoxicated employee such as Lane drove a car, there would be an accident and/or injuries and/or death.

62.

Billiard Club voluntarily assumed the duty to act reasonably to prevent Lane from driving while intoxicated when Billiard Club provided free alcohol to its employees at its premises.

63.

Having assumed that duty, Billiard Club breached that duty by providing alcohol to Lane and other employees, allowing him to become intoxicated and failing to act reasonably to prevent the unreasonable potential harm to others, including Susan Wood.

64.

The burden placed on Billiard Club to prevent the harm was minimal as by either failing to provide the alcohol, requiring employees to leave the premises before they drink, or even providing alternative forms of transportation would require only minimal effort by Billiard Club to prevent Lane from driving intoxicated.

65.

The foreseeability and gravity of harm to Susan Wood and the general public clearly outweighed any burden on Billiard Club to take action to prevent the foreseeable harm.

66.

As a matter of law, the foreseeability and gravity of harm greatly outweighed any burden on Billiard Club to take action to prevent the harm.

67.

Applicable Tennessee law to its employees prohibited the providing of alcohol on its premises by Billiard Club. The Plaintiff also avers and charges that Defendant Billiard Club has violated application provisions of the Chattanooga City Code, which prohibits serving or dispensing any alcoholic beverages on its premises after 3:00 a.m.

68.

Public policy requires that Billiard Club had a duty to act reasonably to prevent Lane from driving while intoxicated from alcohol provided by his employer, at his place of work.

69.

Billiard Club had the authority and opportunity to take action to preclude Lane's driving.

70.

Billiard Club breached the duty of reasonable care it owed to Susan Wood.

71.

For the reasons set forth herein, Billiard Club was negligent and negligent per se for the violation of applicable Tennessee law and provisions of the Chattanooga City Code.

72.

As a direct and proximate result of the breach of care, negligence, negligence per se as set forth herein, and the actions and inactions of Billiard Club, Susan Wood was injured and ultimately died.

COUNT III – GARY BOND

73.

At the time of the incident, Lane resided at 3117 Olde Towne Lane, Chattanooga, Tennessee.

74.

At the time of the incident, Defendant Bond resided at 3117 Olde Towne Lane, Chattanooga, Tennessee.

75.

At the time of the incident, Defendant Bond was the head of the household at 3117 Olde Towne Lane where he and Lane resided.

76.

The vehicle driven by Lane, maintained by Bond, was for the purpose of providing pleasure and comfort for Bond's family.

77.

At the time of the incident, Lane was using the vehicle in furtherance of said purpose with the knowledge and permission of Bond.

78.

As a matter of public policy the actions of Lane are imputed to Bond, the head of the household.

WRONGFUL DEATH

79.

As a direct and proximate result of the negligence, negligence per se, actions and inactions of all Defendants, Susan Wood was injured and died and Matthew Wood, as surviving spouse of Susan Wood, claims damages for:

- (a) Susan Wood's pre-death mental, physical, and emotional pain and suffering;
- (b) Burial expenses;
- (c) The pecuniary value of Susan Wood's life including loss of consortium, for the value of the tangible services she provided to the family, and the intangible benefits she provided to her family including attention, guidance, care, protection, training, companionship, cooperation, affection, love, and sexual relations.

PUNITIVE DAMAGES

80.

The actions of Defendants as outlined herein constitute gross negligence, recklessness, and demonstrate an entire want of care so as to raise a presumption of conscious indifference to

the circumstances. Matthew Wood, as surviving spouse of Susan Wood, is entitled to recover punitive damages from the Defendants due to their actions outlined herein.

WHEREFORE Plaintiff requests the following:

1. That process be served on Defendants according to law;
2. That Plaintiff have a trial by jury;
3. That judgment be entered in Plaintiff's favor against Defendants for compensatory damages as set forth above, as a jury shall determine as just and reasonable under the circumstances;
4. That punitive damages be imposed against Defendants and awarded to Plaintiffs in an amount sufficient to punish and deter; and
5. That Plaintiff receive such other relief as the Court shall deem just and proper.

This 9th day of March, 2010.



Michael E. Richardson, TNBPR # 07191
THORNBURY, MORGAN & RICHARDSON
732 Cherry Street
Chattanooga, Tennessee 37402
(423) 756-2221
(423) 265-4220 (Facsimile)

AND

John D. Steel, GABAR # 677646
MATTHEWS, STEEL & MOSS, LLP
Pro Hac Application Pending
15 Piedmont Center
3575 Piedmont Road, N.E.
Suite 1560
Atlanta, Georgia 30305
(404) 264-1292
(404) 264-0161 (Facsimile)