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## MONEY & THE LAW: Drunken women vs. hotel case heads back to trial court

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*By jim flynn - • Published: May 5, 2015 •  1*

Two years ago, I told you about a personal injury case from March 2007 that has been working its way through the Colorado courts. The case, Groh v. Westin, is still going on, and I thought it was time for an update.

Here's the background: Jillian Groh and several friends were having a night on the town in Denver. Groh, thinking ahead and knowing drinking would occur, reserved a room at the Westin Hotel. After the bars closed, Groh and her friends crowded into her hotel room, where they made sufficient noise to attract the attention of a security guard.

Shortly after 3 a.m., Groh and her friends were ordered to leave the hotel. Because it was cold outside, one of the group asked a security guard if everyone could wait inside until a cab could be found. The guard blocked the door and said "no." Groh and six of her friends then walked past a taxi stand, down a ramp to the hotel's parking garage, and climbed into Groh's five seat PT Cruiser. Groh gave the keys to Angela Reed, who drove out of the garage and headed north on I-225. She was the only one wearing a seatbelt. Around 4 a.m., and 15 miles from the hotel, Reed crashed into a slow-moving vehicle. One person in

the PT Cruiser was killed. Groh sustained injuries resulting in a "persistent vegetative state." At the time of the accident, Reed's blood alcohol level was more than twice the DUI limit. Groh, through her parents acting on her behalf, sued Westin, claiming it owed her a duty of care that had been breached, causing her injuries.

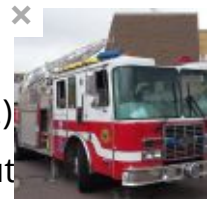
The trial court dismissed Groh's case on a motion, concluding that a hotel did not have "a legal duty to prevent injuries subsequent to eviction by preventing drunk driving."

In a November 2012 opinion, the Court of Appeals agreed, stating that "Westin had no duty to take affirmative action to protect Groh from the risk that she would get into a car driven by an intoxicated friend" and be injured.

In March 2013, however, the Court of Appeals, in a rare move, withdrew its original opinion and issued a new one. This occurred after one of the judges on the appeals court panel retired and another judge took his place. The new opinion - written by the judge who had dissented from the first opinion - held that hotels have a duty when evicting a guest to do so in a "reasonable manner," and this "precludes ejecting a guest into foreseeably dangerous circumstances." Only a jury, after hearing all the evidence, can decide whether this duty was breached, the new opinion said.

Westin appealed to the Colorado Supreme Court, which affirmed the Court of Appeals decision April 13 in a 7-2 vote.

Now, the case is heading back to the trial court. Jurors will be instructed that Westin had a duty to exercise reasonable care when it evicted Groh, and if, in the course of the eviction, it placed Groh in a foreseeably dangerous environment, that duty was breached. (Westin will argue there was no foreseeably dangerous environment because Groh could have taken a cab.) jury will also be instructed that Groh must prove that Westin's breach of duty there was one, was a cause of Groh's injuries. (Westin will argue the cause of



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Groh's injuries was her decision to get in a car with an intoxicated driver.) The jury will additionally be told to allocate fault, or negligence, among Westin, Reed and Groh. Groh's recovery will be reduced by her share of fault. If the jury finds Groh's share of fault exceeded 50 percent of the total, she will receive nothing.

Since Groh will remain in a permanent vegetative state no matter what, the real issue is whether Westin and its insurance companies will have to contribute to Groh's costs of care, and whether her attorneys, who have spent eight years working on this case (and aren't done yet), will get paid for their effort.

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