

Money and the Law: Hotelier headed back to trial

By Jim Flynn Special to The Gazette - • Published: May 19, 2013 • 0

An appellate court, once it reaches a decision, rarely changes its mind.

After all, the court gave the case its best shot on the first try. There are other cases waiting in line to be decided. The legal system is too slow and pedantic as it is. These are commonly heard complaints.



However, the Colorado Court of Appeals recently did change its mind on a personal injury case I told you about in January.

In March 2007, Jillian Groh and 10 of her friends planned a night on the town in Denver. Groh, 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 the group 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 vehicle, a five-seat PT Cruiser. Groh gave the keys to one of the group, Angela Reed. Reed exited the garage and headed

northbound on Interstate 225. She was the only one wearing a seatbelt. At around 4 a.m., 15 miles from the hotel, Reed crashed into a slow-moving vehicle towing another 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 of .08. Groh sued Westin, the hotel operator, claiming it owed her a duty of care that had been breached, leading to her injuries.

The trial court dismissed the case on a motion, concluding that a hotel did not have "a legal duty to prevent injuries subsequent to eviction by preventing drunk driving." The Court of Appeals, in an opinion issued in November, agreed. Although "an innkeeper owes a guest a duty of reasonable care," the court ruled, once an individual ceases to be a guest by reason of a lawful eviction, that duty terminates. "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, however, the court withdrew its original opinion and issued a new one. The new opinion holds 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 resulting from either the guest's condition or the environment." Only a jury, the court ruled, after hearing all the evidence, can decide whether this duty was breached.

So the case, originally filed in 2008, is now heading back to the trial court for a trial. The Court of Appeals judge who authored a 22-page dissension from the first opinion wrote the 32-page second opinion. The judge who wrote the first opinion has now dissented from the second opinion. In between the two opinions, a third judge on the panel, who had agreed with the first opinion, was replaced by another judge, who agreed with the second opinion.

In the meantime, Jillian Groh remains in a vegetative state.

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