

Connecticut Law Tribune

September 15, 2014

 ctlawtribune.com

An ALM Publication

FINALIST: MOTOR VEHICLE

Trooper Prevails Against Drunk Driver, Bar: \$12.85M

Case: LaPlante v. Vasquez

Lawyer: Timothy Brignole

Law Firm: Brignole, Bush and Lewis

Date: March 3, 2011

A state trooper who was severely injured by a drunk driver while making a traffic stop won a \$12.85 million verdict.

On July 19, 2008, Ivan Vasquez was drinking at Piggy's Café in Hartford. After leaving, he got on Interstate 84. Also on the highway was Trooper James LaPlante, who had just pulled over a different drunk driver in a white Acura.

A second trooper, Kevin Dowe, arrived on the scene and his dashcam video captured the two officers questioning the Acura's occupant. Then, suddenly, a pickup driven by Vasquez hit Dowe's empty cruiser, caromed off a Jersey barrier and plowed into the Acura.

LaPlante's legs were slammed against the bridge abutment. As red and blue lights flashed in the blackness, his bloodcurdling screams were heard on the video as Dowe called for an ambulance. LaPlante suffered a broken leg, requiring a metal plate and seven screws to repair, bulging spinal discs, a sprained ankle and an injured knee. He was forced to take a disability retirement.

His lawsuit named the driver and also included a dram shop charge against the bar for allegedly serving an already drunk patron. Defense attorney Theodore Heiser asked to bifurcate the trials, so LaPlante's injuries would be considered only after the bar's liability was established. "The liability portion would just be a little tiny trial," said plaintiffs attorney Brignole. Such trials focus on the patron's appearance, often with bar employees swearing they saw no apparent inebriation.

A Superior Court judge, however, denied the motion to bifurcate. That was good news for the plaintiffs, who were able to quickly get a key piece of evidence before the jury. "I had as evidence the video from [trooper] Dowe's dash cam of the impact," said Brignole. "LaPlante was screaming that he's lost his leg. Horrible, horrible screaming and screaming."

To establish that Vasquez was intoxicated before he had his last drink at Piggy's, Brignole called state toxicologist James O'Brien.

Brignole's goal was to establish that Vasquez was intoxicated at the time Piggy's served him his last beer. Toxicologist O'Brien did this by extrapolation; working back from the time Vasquez was tested in custody, he determined that Vasquez's blood-alcohol level had been 0.14 at the time he was last served.

And so for the claims against the bar, Brignole attempted to get the trial judge, A. Susan Peck, to give the jury a charge based on evidence of blood-alcohol level. Peck's decision was a key one, as a landmark 1985

state Supreme Court case in *Sanders v. Officers Club* stated that bars should be held responsible if they continued to serve patrons who displayed "visible excitation of the passions and impairment of the judgment, or a derangement or impairment of physical functions and energies."

Over the year, judges have interpreted that ruling to mean that bars are liable only if they serve someone who is "visibly intoxicated." However, in

this case, Peck told jurors they could consider other factors, including blood-alcohol concentration.

The jury found both Vasquez and the bar liable. The judgment against Vasquez was \$4.2 million, but the jury found he acted recklessly, which tripled the award against him to \$12.6 million. Vasquez, who live in Hartford, was not represented at the trial, and did not appear, so a default was entered against him.

Under the state's dram shop law, damages against bars in such cases are capped at \$250,000, and Piggy's Café was ordered to pay that amount. Said Brignole: "The jury sent a message to not only the bars, but to drunk drivers that they will be held accountable and responsible when they injure ... state troopers."

Posttrial: Brignole argued that his client should collect interest on a pre-trial offer of compromise made to Piggy's Café. He said the interest should be based on the total jury award. In turn, defense attorney Heiser argued that interest should not be added because it would push the bar's damages above the statutory limit of \$250,000. In July 2012, the Appellate Court ruled that interest could be awarded, but only on the \$250,000 statutory limit. So \$35,000 was added to the total verdict.



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