



You threw a party, served drinks and then this happened!

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Posted September 20, 2013

Facts:

It's Halloween and you're throwing the best party ever! You made a huge cauldron of your famous Witches' Brew, complete with cranberry juice, ginger ale, and more than 3 liters of Grey Goose vodka. It's a smash hit among your 30 adult guests - so much so that one of them, age 25, leaves the party, runs a red light, and seriously injures another motorist. Can you be held liable to the injured person? Tell us what you think! We'll post our answer Monday!

Our Simple Answer:

You (the host) will **not** be found at liable for this accident because you furnished alcohol to a person that was 21 years or older.

Our Detailed Legal Answer:

Furnishing alcoholic beverages is not the proximate cause of injuries resulting from intoxication. The consumption of alcoholic beverages is the proximate cause of injuries upon another by an intoxicated person.¹ No social host who furnishes alcoholic beverages to any person may be held legally accountable for damages suffered by that person, or for injury to the person or property or death of any third person resulting from the consumption of those beverages.² Serving alcohol to persons under 21 is the exception to the rule.³

At law your negligence must be both the actual cause and proximate cause of another persons injuries for you to be liable.

Actual causation uses the "but for test". In this example, the accident would not have occurred but for your serving alcohol to the 25 year old guest. Hence, you were an actual cause of the injuries in the eyes of the law.

However, the proximate cause test serves to limit liability by saying that your serving the alcohol was not the legal cause or proximate cause of the injuries. In this fact pattern there is a chain of events: 1) Your serving alcohol; 2) Your guest consuming alcohol; 3) Your guest driving impaired; and 4) Your guest running a red light. Your act was the

¹ California Civil Code Section 1714(b)

² California Civil Code Section 1714(c)

³ California Civil Code Section 1714(d)

first act that set the chain of events to occur, and it was foreseeable that if you served alcohol that something like this could occur. As a result some judges (in 1976 and 1978) believed that you could and should be found to be the proximate cause for the injury to third persons.

In response to those 1976 and 1978 rulings, the California legislature chose to say that merely serving alcohol to 21 and over adults is not sufficient for the social host to be liable because the guest/driver in this fact pattern is the only person responsible for the following three events in the chain. In this fact pattern the guest that caused the accident is 25 years old. You will not be found liable for this accident.

This is certainly a hot topic and causes lots of moral outrage. It happens to be an area of the law that many people assume creates liability when in fact the law does not support any such legal theory. This is why choose to bring this area of law to your attention.

CONCLUSION:

If you were sued as a social host in this situation, you would tender the lawsuit to your homeowner's insurance for a defense. The defense lawyer assigned to your case would immediately seek to dispose of the lawsuit by indicating that there is no legal liability for your conduct of furnishing alcoholic beverages to guests 21 and over.

You should make sure that you do not serve or furnish alcohol to persons under 21 years of age because you can be held liable for injuries, property damage, and death to persons as a result of your doing so.

Legal opinions regarding the outcome of a given fact pattern can and do vary. The legal opinions expressed herein are just one lawyer's opinion of the likely results of this fact pattern. They are based on California law only.

You should not construe this post and/or the answer as legal advice. Legal opinions can and will vary even when facts change ever so slightly. Please consult a licensed lawyer for answers related to your specific fact pattern or legal situation. This information is disseminated for informational purposes only and is not intended to be an exhaustive legal analysis of the facts and issues presented.

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