



AlaFile E-Notice

58-CV-2016-900703.00

To: DOUGLAS ANTHONY DELLACCIO JR.
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NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

WILLIAM JOSEPH ROHR AS ADMINISTRATOR OF THE ESTATE OF RYAN JOSEPH ROHR
58-CV-2016-900703.00

The following complaint was FILED on 8/25/2016 11:31:27 AM

Notice Date: 8/25/2016 11:31:27 AM

MARY HARRIS
CIRCUIT COURT CLERK
SHELBY COUNTY, ALABAMA
POST OFFICE BOX 1810
112 NORTH MAIN STREET
COLUMBIANA, AL, 35051

205-669-3760
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ELECTRONICALLY FILED
8/25/2016 11:31 AM
58-CV-2016-900703.00
CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

State of Alabama
Unified Judicial System
Form ARCiv-93 Rev.5/99

COVER SHEET
CIRCUIT COURT - CIVIL CASE
(Not For Domestic Relations Cases)

Case: **58**
Date of Filing: 08/25/2016
Judge Code:

GENERAL INFORMATION

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA
WILLIAM JOSEPH ROHR AS ADMINISTRATOR OF THE ESTATE OF RYAN JOSEPH ROHR, DECEASED v. HOOT

First Plaintiff: Business Individual Government Other
First Defendant: Business Individual Government Other

NATURE OF SUIT: Select primary cause of action, by checking box (check only one) that best characterizes your action:

TORTS: PERSONAL INJURY

- WDEA - Wrongful Death
- TONG - Negligence: General
- TOMV - Negligence: Motor Vehicle
- TOWA - Wantonness
- TOPL - Product Liability/AEMLD
- TOMM - Malpractice-Medical
- TOLM - Malpractice-Legal
- TOOM - Malpractice-Other
- TBFM - Fraud/Bad Faith/Misrepresentation
- TOXX - Other: _____

TORTS: PERSONAL INJURY

- TOPE - Personal Property
- TORE - Real Property

OTHER CIVIL FILINGS

- ABAN - Abandoned Automobile
- ACCT - Account & Nonmortgage
- APAA - Administrative Agency Appeal
- ADPA - Administrative Procedure Act
- ANPS - Adults in Need of Protective Service

OTHER CIVIL FILINGS (cont'd)

- MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/ Enforcement of Agency Subpoena/Petition to Preserve
- CVRT - Civil Rights
- COND - Condemnation/Eminent Domain/Right-of-Way
- CTMP - Contempt of Court
- CONT - Contract/Ejectment/Writ of Seizure
- TOCN - Conversion
- EQND - Equity Non-Damages Actions/Declaratory Judgment/ Injunction Election Contest/Quiet Title/Sale For Division
- CVUD - Eviction Appeal/Unlawful Detainer
- FORJ - Foreign Judgment
- FORF - Fruits of Crime Forfeiture
- MSHC - Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition
- PFAB - Protection From Abuse
- FELA - Railroad/Seaman (FELA)
- RPRO - Real Property
- WTEG - Will/Trust/Estate/Guardianship/Conservatorship
- COMP - Workers' Compensation
- CVXX - Miscellaneous Circuit Civil Case

ORIGIN: F **INITIAL FILING** A **APPEAL FROM DISTRICT COURT** O **OTHER**
R **REMANDED** T **TRANSFERRED FROM OTHER CIRCUIT COURT**

HAS JURY TRIAL BEEN DEMANDED? **YES** **NO** **Note:** Checking "Yes" does not constitute a demand for a jury trial. (See Rules 38 and 39, Ala.R.Civ.P, for procedure)

RELIEF REQUESTED: **MONETARY AWARD REQUESTED** **NO MONETARY AWARD REQUESTED**

ATTORNEY CODE:
DEL016 8/25/2016 11:31:05 AM /s/ DOUGLAS ANTHONY DELLACCI
Date Signature of Attorney/Party filing this form

MEDIATION REQUESTED: **YES** **NO** **UNDECIDED**



IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

WILLIAM JOSEPH ROHR, as)
Administrator of the Estate of RYAN)
JOSEPH ROHR, deceased,)
)
Plaintiff,)

v.)

CIVIL ACTION NO.: _____

HOOTERS OF PELHAM, LLC; HOOTERS OF AMERICA, LLC; VICTORIA M. SULLIVAN; and Fictitious Party Defendants, No. 1, whether singular or plural, that individual or entity who or which negligently and/or wantonly hired, retained, trained or supervised the server of any spirituous liquors whose negligence or wantonness proximately caused the Plaintiff to be injured on the occasion made the basis of Plaintiff's complaint; No. 2, whether singular or plural, that individual or entity who or which was the master, principal or employer of the server of any spirituous liquors or that individual or entity for whom the server of any spirituous liquors was performing any type of service or duty whose negligence or wantonness proximately caused the Plaintiff to be injured on the occasion made the basis of Plaintiff's complaint; No. 3, whether singular or plural, that individual or entity who or which provided any insurance coverage, of whatever kind or character, to any of the named or Fictitious Party Defendants; No. 4, whether singular or plural, that individual or entity which is the franchisor, partnership, joint venture, parent company or holding company of any of those entities described above or any of the named or Fictitious Party Defendants; No. 5, whether singular or plural, that entity or those entities, other than those entities described above, which is the successor in interest of any of those entities described above; No. 6, whether singular or plural, that entity or those entities, other than those entities described above, which was the predecessor corporation of the entities described above; No. 7, whether singular or plural, that entity or those entities who or which had supervisory authority relating to the to the selection, training and hiring of servers of Ryan Joseph Rohr involved in the occurrence made the basis of this lawsuit; No. 8, whether singular or plural, that entity or those entities, or individual, other than those named above, whose negligence, wantonness, or other wrongful conduct contributed to cause the occurrence made the basis of this lawsuit; No. 9, whether singular or plural, that being that entity or those entities, other than those named above that served, dispensed, sold or provided spirituous liquors contrary to the provisions of law, causing the intoxication of Ryan Joseph Rohr, which led to the collision that killed Ryan Joseph Rohr; No. 10, whether singular or plural, that being the individual or individuals, other than those named above, that served, dispensed, sold or provided spirituous liquors contrary to the provisions of law causing the intoxication of Ryan Joseph Rohr or any other person, which led to the collision that killed Ryan Joseph Rohr. Plaintiff avers that the identities of the Fictitious

Party Defendants are otherwise unknown to the Plaintiff at this time, their identities as proper Party Defendants are not known to Plaintiff at this time but their true names will be substituted by amendment when the aforesaid lacking knowledge is ascertained,

Defendants.)
)

COMPLAINT

PARTIES

1. Plaintiff, William Joseph Rohr, is over the age of nineteen and is a resident of Bartow County, Georgia.

2. The Plaintiff, William Joseph Rohr, as Personal Representative of the Estate of Ryan Joseph Rohr, deceased, was appointed Administrator of the Estate of Ryan Joseph Rohr by the Probate Court of Bartow County, Georgia on August 1, 2016. Plaintiff, William Joseph Rohr, as Personal Representative of the Estate of Ryan Joseph Rohr, deceased, brings this action.

3. Defendant, Hooters of Pelham, LLC is a business and/or foreign corporate entity doing business in Shelby County, Alabama.

4. Defendant, Hooters of America, LLC is a business and/or foreign corporate entity doing business in Shelby County, Alabama.

5. Defendant, Victoria M. Sullivan, is a resident of Elmore County, Alabama, is over the age of nineteen years, and was acting within the regular course and scope of her employment in Shelby County, Alabama, at the time of the incident made the basis of this suit.

FACTS

6. On or about May 25, 2016, Ryan Joseph Rohr purchased and was served spirituous liquors by Victoria M. Sullivan and/or Fictitious Defendants 9 and/or 10 while dining at the Hooters restaurant located at 400 Cahaba Valley Rd, Pelham, AL 35124. Mr. Rohr, who was under the age of 21 at the time of the purchases, was not asked by the server, Defendant Victoria M. Sullivan and/or

Fictitious Defendants 10, to present any form of identification to verify he was of legal age to purchase and be served spirituous liquors.

7. Mr. Rohr was accompanied by Jordon Colley, John Deal, and Dylan Spruill, none of which are parties to this action. Dylan Spruill was also under the age of 21 at the time, was also allowed to purchase and be served spirituous liquors without presenting identification to verify he was of legal age to purchase and be served spirituous liquors.

8. After dining and consuming multiple alcoholic beverages over the course of approximately two to three hours, Rohr and the other three individuals paid for the food and drink and left the restaurant to return to their hotel, which is located across the street from the Hooters restaurant.

9. Mr. Deal was the first to cross the street in front of the Hooters restaurant. He was followed by Mr. Spruill. Mr. Colley had begun to cross the street and was standing in the middle turning lane when Mr. Rohr began to cross. As Mr. Rohr was crossing the street intoxicated, he was struck by a vehicle. The impact propelled Mr. Rohr's body approximately thirty feet down the road.

10. Ryan Joseph Rohr, died as a result of the injuries he sustained just steps outside the Hooters restaurant.

COUNT I
(Dram Shop - Code of Alabama, 1975, § 6-5-71)

11. Plaintiff adopts and incorporates by reference the allegations of the preceding paragraphs of the Complaint.

12. This count is brought pursuant to Code of Alabama, 1975, § 6-5-71, otherwise known as the Alabama Dram Shop Act.

13. The Alabama Dram Shop Act provides a cause of action by any person injured in consequence of the intoxication of any person against any person who provides alcohol, contrary to the provisions of law, causing the intoxication of such person.

14. On or about May 25, 2016, Defendants, their agents and employees sold, gave, or otherwise disposed of spirituous liquors to an underage minor, Ryan Joseph Rohr, contrary to the Dram Shop Act: Defendants and its employees sold Rohr spirituous liquors when he was an underage minor contrary to Code of Alabama § 6-5-71 and Rule No. 20-X-6-.09 of the Rules of the Alabama Alcoholic Beverages Control Board.

15. Defendants knew or should have known that Ryan Joseph Rohr was a minor child at the time they did unlawfully sell and serve him such spirituous liquors.

16. Defendants served, dispensed, sold or provided spirituous liquors to Rohr contrary to the provisions of Ala. Admin. Code § 20-X-6-.02(4), which states, "...No ABC Board on-premises licensee, employee or agent therefore shall serve any person alcoholic beverages if such person appears, considering the totality of the circumstances, to be intoxicated."

17. The Alabama Supreme Court has stated that in order to show a violation of the Dram Shop Act the plaintiff must prove three elements: The sale must have (1) been contrary to the provisions of law; (2) been the cause of the intoxication; and, (3) resulted in the plaintiff's injury.

Attalla Golf & Country Club v. Harris, 601 So. 2d 965, 1992 Ala. LEXIS 700 (Ala. 1992)

18. Defendants were engaged in the business of selling alcoholic beverages and did negligently and/or wantonly sell, give, or otherwise dispose of the alcoholic beverages which were consumed by Ryan Joseph Rohr. As a proximate result of the negligent, wanton, willful and/or wrongful conduct of the Defendants in serving alcoholic beverages to Ryan Joseph Rohr, who was under the age of 21 years, Ryan Joseph Rohr became grossly intoxicated and was killed.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment against the Defendants, jointly and severally, for punitive damages in an amount to be determined by a struck jury, plus interest and costs.

COUNT II
(Civil Damages - Code of Alabama, 1975, § 6-5-70)

19. Plaintiff adopts and incorporates by reference the allegations of the preceding paragraphs of the Complaint.

20. This count is brought pursuant to Code of Alabama, 1975, § 6-5-70, otherwise known as the Alabama Civil Damages Act.

21. The Alabama Civil Damages Act provides a cause of action by a parent or guardian of a minor injured as a consequence of intoxication against any person who provides spirituous liquors, contrary to the provisions of law, causing the intoxication of such person.

22. On or about May 25, 2016, Defendants, their agents and employees sold, gave, or otherwise disposed of spirituous liquors to an underage minor, Ryan Joseph Rohr, contrary to the Civil Damages Act: Defendants and its employees sold Rohr spirituous liquors when he was an underage minor contrary to Code of Alabama § 6-5-71 and Rule No. 20-X-6-.09 of the Rules of the Alabama Alcoholic Beverages Control Board.

23. The Alabama Supreme Court has stated that order to establish liability under the Civil Damages Act, a plaintiff must prove that the defendant (1) sold spirituous liquors to a person who was a minor, and (2) was chargeable with notice or knowledge of the minority. *McLeod v. Cannon Oil Corp.*, 603 So. 2d 889, 1992 Ala. LEXIS 597 (Ala. 1992)

24. Defendants knew or should have known that Ryan Joseph Rohr was a minor child at the time they did unlawfully sell and serve him such spirituous liquors.

25. Defendants were engaged in the business of selling alcoholic beverages and did negligently and/or wantonly sell, give, or otherwise dispose of the alcoholic beverages which were consumed by Ryan Joseph Rohr. As a proximate result of the negligent, wanton, willful and/or wrongful conduct of the Defendants in serving alcoholic beverages to Ryan Joseph Rohr, who was under the age of 21 years, Ryan Joseph Rohr was killed.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment against the Defendants, jointly and severally, for punitive damages in an amount to be determined by a struck jury, plus interest and costs.

COUNT III
(Negligent Hiring, Retention, Supervision, Training)

26. Plaintiff adopts and incorporates by reference the allegations of the preceding paragraphs of the Complaint.

27. On or around May 25, 2016, Defendants Hooters of Pelham, LLC, Hooters of America, LLC—and one or of the Fictitious Defendants—negligently hired and/or retained and/or failed to train and supervise its server, Defendant Victoria M. Sullivan and/or Fictitious Defendants 9 and/or 10, to lawfully serve and sell alcohol. Ms. Sullivan and Fictitious Defendants 9 and/or 10 failed to verify the age of the deceased and continued serving Mr. Rohr after he became intoxicated.

28. As a direct and proximate consequence of the negligent, reckless, wanton, and/or wrongful conduct, Ryan Joseph Rohr became intoxicated and was killed.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment against the Defendants, jointly and severally, for punitive damages in an amount to be determined by a struck jury, plus interest and costs.

COUNT IV
(Respondeat Superior)

29. Plaintiff adopts and incorporates by reference the allegations of the preceding paragraphs of the Complaint.

30. Defendant Victoria M. Sullivan, and Fictitious Defendants 9 and/or 10 were acting as an agent and/or employee of Defendants Hooters of Pelham, LLC, Hooters of America, LLC, and/or one or more of the Fictitious Party Defendants, within the line and scope of her employment or agency; and/or acting on behalf of and for the benefit of Defendants Hooters of Pelham, LLC, Hooters of America, LLC, and/or one or more of the Fictitious Party Defendants; and her conduct and actions were authorized and ratified by said Defendants, and done for the benefit of the Defendant(s). Defendants Hooters of Pelham, LLC, Hooters of America, LLC, and/or one or more of the Fictitious Party Defendants, are liable to Ryan Joseph Rohr under the doctrine of *respondeat superior*, vicarious liability and under the principles of agency.

31. As a direct and proximate consequence of the Defendant's wrongful conduct, Ryan Joseph Rohr was killed.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment against the Defendants, jointly and severally, for punitive damages in an amount to be determined by a struck jury, plus interest and costs.

COUNT V
(Fictitious Parties)

32. Plaintiff adopts and incorporates by reference the allegations of the preceding paragraphs of the Complaint.

33. As a proximate consequence of the wrongful conduct, negligence, and/or wantonness of the Defendants, Hooters of Pelham, LLC, Hooters of America, LLC, Victoria M. Sullivan, and one or more of the fictitiously named Defendants, Ryan Joseph Rohr was killed.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment against the Defendants, jointly and severally, for punitive damages in an amount to be determined by a struck jury, plus interest and costs.

JURY DEMAND

Plaintiff hereby demands trial by struck jury.

s/ Douglas A. Dellaccio, Jr. _____

DOUGLAS A. DELLACCIO, JR. (DEL016)

F. JEROME TAPLEY (TAP006)

J. CURT TANNER (TAN012)

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PLAINTIFF'SS ADDRESS

William Joseph Rohr, as Administrator of the
Estate of Ryan Joseph Rohr, deceased.

c/o CORY WATSON, P.C.

2131 Magnolia Avenue, Suite 200

Birmingham, Alabama 35205

PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL

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c/o CT Corporation System
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Montgomery, AL 36104

Hooters of America, LLC
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Atlanta, GA 30339

Victoria M. Sullivan
811 Deatsville Hwy, Apt. B69
Millbrook, AL 36054