

# Bar responsibility arguments heard

## *State Supreme Court looks at Boot case*

By Leslie Williams  
Staff writer

In a case that could affect any business that serves alcohol, the Louisiana Supreme Court heard arguments Friday on whether a bar is responsible for a patron's later actions elsewhere.

Mothers Against Drunk Driving champions the effort to overturn a decision last year by the 4th Circuit Court of Appeal in New Orleans, but an industry group worries an adverse ruling could result in bars "being responsible for a person's irresponsible behavior."

The case stems from a 6-year-old incident in which Tulane University student Matthew Berg got in a fight with a group of teen-agers. Berg sued The Boot, an Uptown haunt near the Tulane campus, saying it was, in part, responsible for his injuries because the bar served alcohol to the one member of the teen-age group who was too young to be served.

Berg was 20 when he was beaten by several teen-agers and hit by a truck driven by then-17-year-old Philip Zummo, a student at Jesuit High School. The others were at least 18; at the time of the 1994 incident, an establishment could sell alcohol to those 18 and older, though it was illegal for people 18 to 21 to drink alcohol.

A Civil District Court jury agreed the bar was at fault, and in the summer of 1998, it decided that The Boot should pay about \$65,000 to Berg.

In early 2000, the 4th Circuit reversed that decision, concluding "the bar had nothing to do with the altercation and its af-

termath, which all occurred away from the bar's premises" and that "there is a complete absence of any basis to impose liability."

Berg appealed the decision to the state Supreme Court.

If bars and other businesses are going to be held liable for events that occur blocks from their establishments "this is just going to invite numerous lawsuits," said Chris Young, executive director of the Louisiana Association of Beverage Alcohol Licensees, which represents about 500 establishments in Louisiana that serve alcoholic beverages.

"The individuals who committed the damage should be held responsible," said Young, "not someone who is perceived as having deep pockets."

On Friday, the Supreme Court justices attempted to sort out key facts, a challenging exercise considering both sides still dispute whether Zummo was intoxicated, whether he produced an ID when he entered The Boot and who started the fight.

Berg's attorney, Randall Smith, argued "the intoxication of this minor contributed to this accident" and the "intoxication was caused by the bar."

Smith said Zummo and his friends started the fight and that Berg's nose was broken and his back was injured.

Boot attorney Darleen Jacobs said Berg started the fight, and was looking for trouble because he'd just been dumped by his girlfriend. She said Zummo was badly beaten.

It was not clear when the Supreme Court will rule on the matter.

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Leslie Williams can be reached at [williams@timespicayune.com](mailto:williams@timespicayune.com) or at (504) 826-3358.