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SECTION

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MADD backs injury suit against bar

Liability for minors is key issue in case

By **Littice Bacon-Blood**
Staff writer

A New Orleans law firm and Mothers Against Drunk Driving have joined forces in an attempt to get the Louisiana Supreme Court to review a case regarding whether a popular Uptown bar should be held liable for the actions of minors if it served them alcohol.

In May, the 4th Circuit Court of Appeal reversed a jury's decision that The Boot, a favorite university hangout, should pay a former Tulane University student \$65,000 because it was partly responsible for an attack on him by an underage teen-ager who said the bar served him beer.

The appeals court ruled that punitive damages cannot be imposed against a bar and that it takes more than dispensing beer to an underage patron for a bar to be liable for injuries caused later.

Randall Smith, the attorney for the former Tulane student, and Brenda Sinclair, a representative for MADD, said the ruling sets a bad precedent and sends a dangerous message.

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Tavern's attorney lashes back

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Smith already has filed an appeal requesting that the state's highest court review the case.

Sinclair, who made the announcement from the law offices Thursday, said her organization will wage a public awareness campaign and will file a friend of the court brief seeking a reversal of the appeals decision.

"I think this is a deciding factor in whether (bartenders) turn their heads away or check a little closer," Sinclair said. "We feel that if this is not overturned, a precedent will be set and bars will not be held liable if they allow someone under 21 to consume alcohol. They have nothing to lose by it and all to gain."

Smith said MADD's involvement shows the importance of pursuing the case.

"MADD raises it to another level of concern, not just for this case, but the ramifications for other court rulings," Smith said.

Darleen Jacobs, attorney for The Boot, called MADD's involvement a publicity stunt.

"I think that Randy Smith is a sore loser and that he asked MADD to get involved," Jacobs said. "I don't think MADD's involvement will alter or change" the facts.

Jacobs said she thinks the Supreme Court will uphold the appeals court's decision that no evidence exists to hold her client liable.

"I would think that MADD had better things to do than get involved in a non-meritorious case," Jacobs said.

The case stems from a 1994 attack on Matthew Berg, then a junior at Tulane, by four teen-agers who testified they'd been

drinking at The Boot. The group left the bar and encountered Berg about a block away. Berg was beaten and hit by a car driven by Philip Zummo, who was 17.

Zummo testified he'd drunk about a half pitcher of beer at the Broadway tavern before the altercation.

The appeals court ruling threw out a 1998 jury verdict in Civil District Court.

"The bar had nothing to do with the altercation and its aftermath, which all occurred away from the bar's premises," the appeals court said. "As a matter of law, there is a complete absence of any basis to impose liability."

In light of that ruling a representative from the Louisiana Association of Beverage Alcohol Licensees, a trade organization that represents bar owners, said he doesn't understand why MADD would get involved in the case.

"It certainly seems for MADD to get involved is beyond the scope of their purpose," said Chris Young, executive director and the attorney for the alcohol licensees association. "They seem to be a group of neo-prohibitionists."

Young said the association probably will file a supporting brief of its own.

"If the MADD mothers are involved, we'll probably do the same thing," he said. "This is a major issue for the industry."

Both sides agree that the outcome of the case would mean far-reaching ramifications.

"If this is allowed to stand, there will be confusion as to whether bars have any civil liability for minors," Smith said. "The Supreme Court can clear it up."