

COMMONWEALTH OF KENTUCKY
CALDWELL COUNTY CIRCUIT COURT
CIVIL ACTION NO. 18-CI-00101

ELECTRONICALLY FILED

LAINIE BECKNER, ET ALS
AS CO-ADMINISTRATORS OF
THE ESTATE OF GRANT BECKNER

PLAINTIFFS

VS.

PRINCETON LODGE #1115,
BENEVOLENT AND PROTECTIVE ORDER OF ELKS
OF THE UNITED STATES OF AMERICA, INC., ET ALS

DEFENDANTS

PLAINTIFFS' TRIAL BRIEF

Plaintiffs submit the following Trial Brief in compliance with the Court's Case Management Order.

SUMMARY OF THE CASE

This is a wrongful death and negligence action premised on Kentucky's general standard of ordinary care, and the specific responsibilities placed on businesses licensed to sell alcoholic beverages by the drink under Kentucky and Princeton, KY laws, as well as the Defendant Princeton Lodge No. 1115 (Elks) under its own codified standards of care. While Defendant objects *in limine* to arguments related to "general safety rules," the ample and specific safety rules which applied to Elks on April 15, 2017 are sourced directly from these laws and internal rules. The Elks' 30.02(6) testimony is that employees, officers, and board members (trustees) of the club were all responsible for maintaining security on the premises, and for strictly enforcing the laws and "House Rules."

Among the applicable specific safety rules were duties:

- To maintain security on its premises;

- To ensure that all persons serving alcohol on the premises had completed the State of Kentucky Server Training in Alcohol Regulations (S.T.A.R.) training;
- To provide outside lighting to promote the safety, health and welfare of the general public while using the premises, and to discourage unlawful activity in and around the premises;
- To use ordinary care in training and supervising all of its employees, officers, trustees, and/or board members;
- To not suffer or permit persons on the premises to create a risk through engaging in fighting, tumultuous, or threatening behavior, through making unreasonable noise or through creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;
- To serve no alcoholic beverage to any person who is actually or apparently under the influence of alcoholic beverages; and
- To strictly enforce its own House Rules.

On April 15, 2017, Joseph “Joey” Anderson repeatedly stabbed and cut Grant Beckner until he bled to death in a pitch-black area outside the Elks. Anderson and Beckner were both members of the club, and Anderson was an off-duty Elks bartender who drank 3 beers at the club beginning at approximately 5:23 PM with the Elks’ “Leading Knight” (vice-president) and club Secretary (an official and paid position). Anderson rode to Kuttawa with them while drinking his third beer and sat with them at a restaurant/bar there where he drank an additional 8-10 beers. After stopping for at least one more drink, Anderson returned to the Elks at 9:54 PM. Multiple witnesses stated to police and other investigators that Anderson appeared drunk and attempted to pick a fight with someone until after 11:30 PM.

Anderson’s conduct included:

- repeatedly berating and arguing with the bartender, Alyssa Butler, about the volume of the music in the bar, using obscenities;
- continuing to rant and loudly cause a disturbance to the extent that several people left the Elks club over the course of an hour and a half to get away from the risk and annoyance he presented;
- calling others in the bar by insulting and obscene names;
- insulting at least one Elks member for being too cowardly to go outside with him, using words understood universally to be a challenge to a physical fight;
- raising a beer bottle in the air while stating that he needed to hit one of the people he was insulting over the head with it;
- specifically telling an Elks board member that he had a problem with Beckner and intended to do something about it;
- stating that he was a “servant of the devil” who would send someone “to hell” that night;
- shoving and fighting with Beckner after Beckner asked, with his palms raised to the ceiling, if Anderson was talking to him.

RECITATION OF DISPUTED FACTS AND LEGAL ISSUES

- Elks contend that Beckner experienced no pain and suffering whatsoever from being stabbed 17 times until he bled to death.
- Elks contend that the situation was handled correctly with no violation of any duties.
- Elks contend that there was no foreseeable risk of harm to anyone at the Elks on April 15, 2017.

- Elks contend that Beckner was not ordered to follow Anderson outside by persons in authority at the Elks.
- Elks contend that the pitch black “blind spot” described by Elks in their 30.02(6) deposition, and which they argued created an “unsafe” condition on the premises to the Alcoholic Beverage Control, was not a factor in the stabbing death of Beckner.
- Elks contend that no responsible person at Elks had any knowledge or warning about Anderson’s prior violent conduct and/or threats of serious physical injury against the Elks president, Steve Wallace (about which Wallace and another Elks officer testified), against Elks member Sissy Redd (assault on Elks premises in March of 2017 and threats to cut Redd’s throat), against Elks member David Brightwell (challenge to fight and threats to “gut” Brightwell “like a hog” in the winter of 2016/17), or any other person.
- Elks contend that no person with responsibilities for safety and rule enforcement at the Elks had any knowledge of Anderson’s threats or the risks he presented prior to his killing of Beckner, including threats about which Elks officers, employees, and board members (trustees) have all testified.

Other legal disputes anticipated by Plaintiffs are outlined in Plaintiff’s motions filed herein related to attempts by the Elks to argue for fault against non-parties, and to argue that Joseph Anderson was *in pari delicto* with the Elks when he killed Grant Beckner and should be apportioned fault in this negligence action.

Miscellaneous matters which Plaintiffs expect to be resolved to simplify trial include Plaintiffs’ proposal to Defendants related to conditions for dismissal of the individual Defendants, whose participation appears to be unnecessary to pursue the Elks’ insurance coverages, and Plaintiffs’ anticipated change to reflect a single personal representative of Grant

Beckner's estate. His daughter Lainie Beckner was much younger when this matter was filed, and she will likely proceed to trial without the need of other administrators to assist her.

ANTICIPATED EVIDENTIARY PROBLEMS

Plaintiffs anticipate that disputes exist regarding the matters outlined in Plaintiffs' motions *in limine*. Plaintiffs anticipate that Elks will attempt to introduce new theories or contrary statements of fact through its expert witness which contradict the Elks' positions in prior proceedings, and contradict admissions, statements of fact and positions taken by the Elks in its 30.02(6) depositions on which Plaintiffs have relied since January 2018. Elks appears to intend to present unattributed or unsupported statements of evidence or testimony through its expert witness, Steven Baker, such as his conclusions about what people are doing or saying on video which has no audio track.

Plaintiffs anticipate there will be disputes related to the motions *in limine* filed by Defendants. Plaintiff objects to this filing, which was well beyond the deadline for such motions established by the Case Management Order herein. That Order stated that certain deadlines were not eligible for extension by agreement. Defendants have not requested an extension from the Court or from Plaintiffs, or addressed this in their motion. Plaintiff will await the Court's direction at the pretrial conference.

There may be evidentiary problems because one of Elks' 30.02(6) witnesses, per the Elks, cannot be located and/or refuses to testify further in any capacity. This is Kayla Stevenson, a key witness who testified at the Anderson criminal trial that she left the Elks after Anderson told her that he would "kill everyone" in the bar except her by using his knife and a gun he had in his truck. Elks had directed Plaintiffs to only arrange her testimony through the Elks' counsel, presumably

because she was a club employee/officer. Elks' counsel was unable to obtain Ms. Stevenson's cooperation to give her personal testimony in this case as requested by the Plaintiffs. Elks' counsel's staff advised that Ms. Stevenson may have moved to a town in Illinois, but Elks have not been able to provide Plaintiffs with any new contact information.

Respectfully submitted,

/s/ David Bryce Barber
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was filed electronically with the Clerk of the Court on this the 28th day of June, 2022, which filing will result in service on the following through the KCOJ online filing system:

Hon. James (Jason) R. Coltharp, Jr.

P. O. Box 995

Paducah, KY 42002-0995

Counsel for Defendants Princeton Elks Lodge #1115, Steve Wallace, Jarrod Jackson and Jessica Board

/s/ David Bryce Barber
David Bryce Barber