

CAUSE NO. C-2621-24-A

GUADALUPE ENRIGUEZ, JR., § IN THE DISTRICT COURT
INDIVIDUALLY AND AS §
REPRESENTATIVE OF THE §
ESTATE OF MARIAH DESIREE §
ENRIQUEZ, DECEASED, §
Plaintiffs, §
§
CYNTHIA HERNANDEZ §
INDIVIDUALLY AND AS §
REPRESENTATIVE OF THE §
ESTATE OF MARIAH DESIREE §
ENRIQUEZ, DECEASED, §
Intervenor, §
§ 92nd JUDICIAL DISTRICT
VS. §
§
HUGO E. LARA, CAMELOT §
DESIGNS & CONSTRUCTION, §
L.L.C., CAMELOT DESIGNS & §
INVESTMENTS, L.L.C., MODERN §
FOODSERVICE, L.L.C. D/B/A BAR §
LOUIE, AND FIRED UP SPI, L.L.C. §
D/B/A TEQUILA SUNSET BAR & §
GRILL, §
Defendants. § OF HIDALGO COUNTY, TEXAS

**PLAINTIFFS' SECOND AMENDED ORIGINAL PETITION, APPLICATION
FOR TEMPORARY RESTRAINING ORDER, AND REQUEST FOR
TEMPORARY INJUNCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Guadalupe Enriquez, Jr., Individually and as Representative of the Estate of Mariah Desiree Enriquez, Deceased, hereinafter called Plaintiffs, complaining of and about Hugo E. Lara, Camelot Designs & Construction, L.L.C., Camelot Designs & Investments, L.L.C., Modern Foodservice, L.L.C. d/b/a Bar Louie, and Fired Up SPI,

L.L.C. d/b/a Tequila Sunset Bar & Grill, hereinafter called Defendants, and for cause of action would show unto the Court the following:

I. DISCOVERY CONTROL PLAN & MONETARY CLAIM FOR RELIEF

1.1 Plaintiff intends to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.4 because this suit involves monetary relief of over \$1,000,000.00, including damages of any kind, penalties, court costs, expenses, pre- and post-judgment interest.

1.2 Plaintiff has suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought. Plaintiff seeks monetary relief of over \$1,000,000.00 and monetary relief, Tex. R. Civ. P. 47(c)(5). Plaintiff reserves the right to either file a trial amendment or an amended pleading on the issue of damages if subsequent evidence shows that the range of damages is either too high or too low.

1.3 Plaintiff demand judgment for all other relief to which Plaintiff deem themselves entitled. *See*, Tex. R. Civ. P. 47(c).

II. PARTIES AND SERVICE

2.1 Plaintiff Guadalupe Enriquez, Jr. is an individual who resides in Hidalgo County, Texas. Plaintiff is the father of Mariah Desiree Enriquez, Deceased, and as the Representative of the Estate of Mariah Desiree Enriquez.

2.2 Defendant Hugo E. Lara is an individual who may be served with process at his residence at 7405 N. 1st, McAllen, Texas, or wherever he may be found via private process server.

2.3 Defendant Camelot Designs & Construction, LLC is a Texas Limited Liability Company who may be served with process through its registered agent, Hugo E. Lara, at 3313 N. McColl Road, McAllen, Texas 78501, via private process server.

2.4 Defendant Camelot Designs & Investments, LLC is a Texas Limited Liability Company who may be served with process through its registered agent, Hugo E. Lara, at 3313 N. McColl Road, McAllen, Texas 78501, via private process server.

2.5 Defendant Modern Foodservice, LLC d/b/a Bar Louie is a Texas limited liability company with its principal place of business in [City], Texas. This Defendant may be served with process through its registered agent, Rajnikant R. Patel who may be located at 7010 Padre Blvd., South Padre Island, Texas. Plaintiffs request that citation be issued.

2.6 Defendant Fired Up SPI, LLC d/b/a Tequila Sunset Bar & Grill is a Texas limited liability company with its principal place of business in McAllen, Texas. This Defendant may be served with process through its registered agent, AHMRCM SPI, L.L.C. located at 1308 E. Jasmine Ave., McAllen, Texas 78501. Plaintiffs request that citation be issued.

III. JURISDICTION AND VENUE

3.1 Jurisdiction is appropriate in this Court as this is a lawsuit seeking damages within the jurisdictional limits of this District Court within the State of Texas, and this Court has personal jurisdiction over Defendants as set out above. Plaintiff seeks all damages that he is legally entitled to recover within the jurisdictional limits of this Court.

3.2 Jurisdiction would not be proper in federal court as there is no diversity of citizenship between the Plaintiff and Defendants in this case, for the reason that Plaintiff

and Defendants are all residents of Texas. Moreover, this lawsuit asserts no federal claims against the United States, nor does it involve any claims based on maritime law.

3.3 Venue is proper in Hidalgo County, Texas, pursuant to Section 15.002(a)(1) of the Texas Civil Practices and Remedies Code, as Hidalgo County is the county in which a substantial part of the events or omissions giving rise to the claim occurred.

IV. FACTS

4.1 On June 1, 2024, Atanacio Salinas, an employee of Defendant Camelot Designs & Construction, LLC, was celebrating his 43rd birthday on South Padre Island. He had rented a two-bedroom condominium at Saida Towers and invited his employer and friend, Defendant Hugo E. Lara, to join him for the weekend.

4.2 Salinas arrived on the island around 5:00 PM after purchasing a large bottle of vodka at Holiday Wine and Liquor in Weslaco. He made a Facebook post inviting people to join his celebration at Saida Towers. Lara arrived on the island around 6:00 PM and went directly to Bar Louie at the Marriott, operated by Defendant Modern Foodservice, LLC.

4.3 Salinas joined Lara at Bar Louie around 8:00 PM. Prior to his arrival, Salinas received a text from Lara saying he was already "Lit." Lara was drinking whiskey when Salinas arrived. Over the next hour to hour and a half, Bar Louie staff continued to serve both men multiple alcoholic drinks without offering food or attempting to slow their consumption. At no time did any manager, bartender or staff of Bar Louie ever evaluate Lara's intoxication or whether he should be cut off from the service of alcohol, but rather left him and Salinas leave Bar Louie in their intoxicated state.

4.4 Around 9:30 PM, Lara and Salinas left Bar Louie. Despite Lara's evident intoxication, Bar Louie staff made no attempt to prevent him from driving. Lara then drove himself and Salinas to Tequila Sunset Bar & Grill, operated by Defendant Fired Up SPI, LLC.

4.5 At Tequila Sunset Bar & Grill, without evaluating Lara or Salinas intoxication, staff sold and served Lara alcoholic beverages, specifically tequila and club soda, from approximately 9:30 PM until at least 12:30/12:45 AM on June 2, 2024. During this time, Lara was observed dancing at the bar, indicating his increasingly intoxicated state. There was a DJ playing music, and Lara would dance at the bar.

4.5 Neither Bar Louie nor Tequila Sunset Bar & Grill offered food to Lara or attempted to slow his alcohol consumption or “cut” these individuals off from the service of alcohol. No staff at either establishment interacted with Lara or Salinas about their level of intoxication or plans for getting home safely or cutting them off or calling the police due to Lara’s obvious intoxication in violations of the TABC rules for service of alcohol or Texas penal code for “public intoxication”.

4.6 Salinas left Tequila Sunset Bar & Grill, intoxicated, around 11:30 PM, leaving intoxicated Lara at the establishment. Intoxicated Lara continued to drink and socialize with a group of people from Bar Louie.

4.7 At approximately 12:30 AM on June 2, 2024, Lara called Salinas, saying he was leaving Tequila Sunset Bar & Grill. Salinas attempted to send a Lyft to pick up Lara but was unsuccessful in locating him.

4.8 In the early morning hours of June 2, 2024, at approximately 1:45 a.m., Defendant Hugo E. Lara, while highly intoxicated, drove a 2023 white Ford F-150 pickup

truck owned by Defendant Camelot Designs & Construction, LLC and/or Camelot Designs & Investments, LLC westbound (wrong direction) in the eastbound lanes of the Queen Isabella Memorial Causeway.

4.9 Defendant Lara's vehicle collided head-on with a 2008 red Kia passenger car driven by Mariah Desiree Enriquez, who was 20 years old and legally traveling eastbound on the Queen Isabella Causeway.

4.10 Mariah Desiree Enriquez survived the initial collision but later succumbed to her injuries and passed away at the scene.

4.11 Defendant Lara was arrested at the scene and charged with felony intoxication manslaughter, as he was under the influence of alcohol at the time of the crash.

V. CAUSES OF ACTION

A. Negligence and Gross Negligence of Hugo E. Lara:

5.1 The collision made the basis of this suit and the resulting injuries and damages were proximately caused by the negligence and negligence per se of Defendant Hugo Lara. Defendant Lara operated the vehicle he was driving in a negligent manner because he violated the duty which he owed Plaintiffs to exercise ordinary care in the operation of the motor vehicle in one or more of the following respects:

- a) Defendant drove the wrong way on a one-way roadway in violation of Tex. Transp. Code § 545.051¹;
- b) Defendant drove while intoxicated in violation of Tex. Pen. Code § 49.04;

¹ WRONG SIDE NOT PASSING - When a vehicle is driven on the wrong side of the roadway not in the act of overtaking and passing another vehicle traveling in the same direction and such action contributes to the crash. Legal Reference: Texas Transportation Code Section 545.051

- c) Defendant drove a vehicle in willful or wanton disregard for the safety of persons or property in violation of Tex. Transp. Code § 545.401(a)²;
- d) Defendant drove on the wrong side of the roadway not passing another vehicle proceeding in the same direction in violation of Tex. Transp. Code § 545.051;
- e) Defendant failed to operate a vehicle as a person using ordinary prudent care would have done under the same or similar circumstances.

5.2 Each of these acts and/or omissions, whether taken singularly or in any combination, constitutes negligence and negligence per se which proximately caused the collision and injuries and other losses as specifically set forth herein.

B. Gross Negligence of Defendant Hugo Lara:

5.3 Defendant Lara's acts or omissions described above, when viewed from the standpoint of Defendant Lara at the time of the act or omission, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Mariah Enriquez and others. Defendant Lara had actual, subjective awareness of the risk involved in the above-described acts or omissions but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Mariah Enriquez and others.

5.4 Based on the facts stated herein, Plaintiffs request exemplary damages be awarded to Plaintiffs from Defendant Lara.

C. Negligent Entrustment by Camelot Designs & Construction, LLC and Camelot Designs & Investments, LLC:

5.5 At all times material hereto, Defendant Hugo Lara was an employee of Defendant Camelot Designs & Construction LLC and or Defendant Camelot Design & Investments, LLC and was acting within the course and scope of his employment or official

² A person commits an offense if the person drives a vehicle in willful or wanton disregard for the safety of persons or property. Legal Reference: Texas Transportation Code Section 545.401(a)

duties. Therefore, Defendant Camelot Designs & Construction LLC and or Defendant Camelot Design & Investments, LLC are liable under the doctrine of *Respondeat Superior* for the wrongful acts of Defendant Hugo Lara.

D. Dram Shop Liability of Modern Foodservice, LLC d/b/a Bar Louie and Fired Up SPI, LLC d/b/a Tequila Sunset Bar & Grill:

5.6 Defendants Modern Foodservice, LLC d/b/a Bar Louie and Fired Up SPI, LLC d/b/a Tequila Sunset Bar & Grill (collectively, "Dram Shop Defendants") are "providers" as defined by Texas Alcoholic Beverage Code § 2.01(1).

5.7 On June 1-2, 2024, Dram Shop Defendants, through their employees and agents, sold and served alcoholic beverages to Hugo Lara when it was apparent that he was obviously intoxicated to the extent that he presented a clear danger to himself and others.

5.8 Despite Lara's obvious intoxication, Dram Shop Defendants continued to serve him alcoholic beverages and failed to take any reasonable steps to prevent him from driving while intoxicated.

5.9 The intoxication of Hugo Lara was a proximate cause of the collision that resulted in the death of Mariah Desiree Enriquez.

5.10 Dram Shop Defendants are liable to Plaintiffs under Texas Alcoholic Beverage Code § 2.02 for damages proximately caused by Lara's intoxication.

VI. DAMAGES

6.1 Plaintiffs seek wrongful death damages including pecuniary losses, mental anguish, loss of companionship, and loss of inheritance pursuant to Chapter 71 of the Texas Civil Practice and Remedies Code. Plaintiffs also seek survival damages for the conscious

pain and suffering Mariah Desiree Enriquez endured prior to her death. Plaintiffs seek monetary relief over \$1,000,000.

6.2 Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiffs seek monetary relief over \$1,000,000. Plaintiffs seek all damages that they are entitled to under law, including but not limited to actual damages, exemplary damages, statutory damages, pre-judgment interest, and post-judgment interest.

VII. APPLICATION FOR TEMPORARY RESTRAINING ORDER

7.1 Plaintiffs incorporate by reference the allegations set forth above as if fully set forth herein. Plaintiffs request that this Court issue a Temporary Restraining Order, without notice to Defendants, Modern Foodservice, L.L.C. d/b/a Bar Louie, and Fired Up SPI, L.L.C. d/b/a Tequila Sunset Bar & Grill, and after notice and hearing, enter a Temporary Injunction during the pendency of this suit, enjoining Defendants, Modern Foodservice, L.L.C. d/b/a Bar Louie, and Fired Up SPI, L.L.C. d/b/a Tequila Sunset Bar & Grill from:

7.2 This matter comes before the Court on Plaintiff's Emergency Motion for a Temporary Restraining Order. The Court, having considered the motion and being fully advised in the premises, hereby ORDERS:

- 1) Defendants Fired Up SPI, L.L.C. d/b/a Tequila Sunset Bar & Grill shall immediately preserve all video surveillance footage from their premises located at 200 W Pike St, South Padre Island, TX 78597 respectively, for the period beginning at 5:00 PM on June 1, 2024, through 3:00 AM on June 2, 2024.
- 2) Defendants Modern Foodservice, L.L.C. d/b/a Bar Louie, shall immediately preserve all video surveillance footage from their premises located at 6700

Padre Blvd, South Padre Island, TX 78597, respectively, for the period beginning at 5:00 PM on June 1, 2024, through 3:00 AM on June 2, 2024.

- 3) Defendants shall preserve all sales records, including but not limited to:
 - a. Cash register receipts
 - b. Credit card transaction records
 - c. Point-of-sale system data
 - d. Bar tabs
 - e. Inventory records

- 4) Defendants shall preserve all employee information for staff who worked between 5:00 PM on June 1, 2024, and 3:00 AM on June 2, 2024, including but not limited to:
 - a. Time cards and clock-in/clock-out records
 - b. Shift schedules
 - c. Personnel files
 - d. Training records related to alcohol service
 - e. Disciplinary records

7.5 Plaintiff is ready to post a bond in the amount set by this Honorable Court as security for this Temporary Restraining Order.

7.6 It is probable that Plaintiffs will recover from Defendants Modern Foodservice, L.L.C. d/b/a Bar Louie, and Fired Up SPI, L.L.C. d/b/a Tequila Sunset Bar & Grill, for the period of 5:00 PM on June 1, 2024, through 3:00 AM on June 2, 2024. after a hearing on the merits. If Plaintiffs' application is not granted, harm is imminent because the information contained on Defendants, Modern Foodservice, L.L.C. d/b/a Bar Louie, and Fired Up SPI, L.L.C. d/b/a Tequila Sunset Bar & Grill, goes to the heart of Plaintiffs' DRAM Shop case including statutory violations, negligence and gross negligence claims. This evidence is critical to proving Plaintiffs' claims. If this evidence is deleted or destroyed, Plaintiffs will suffer irreparable harm.

7.7 The harm that will result if the temporary restraining order is not issued is irreparable. Plaintiffs have no adequate remedy at law because an award of damages will

not retrieve the deleted evidence once it is gone. The threatened injury to Plaintiffs outweighs any possible damage to Defendants from the injunction. Plaintiffs are willing to post bond.

7.8 *Ex parte* relief is appropriate because there was not enough time to serve notice on the Defendants and hold a hearing before the evidence may be deleted or destroyed by Defendants. Plaintiffs fear that if Defendants receive notice of this Application before the restraining order is signed, Defendants may take steps to delete or destroy the evidence at issue.

VIII. REQUEST FOR TEMPORARY INJUNCTION

8.1 Plaintiffs ask the Court to set their application for temporary injunction for a hearing and, after the hearing, issue a temporary injunction against Defendant Hugo Lara.

IX. REQUEST FOR DISCLOSURE

9.1 Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendants Guadalupe Enriquez, Jr., Individually and as Representative of the Estate of Mariah Desiree Enriquez, Deceased, hereinafter called Plaintiffs, complaining of and about Hugo E. Lara, Camelot Designs & Construction, L.L.C., Camelot Designs & Investments, L.L.C., Modern Foodservice, L.L.C. d/b/a Bar Louie, and Fired Up SPI, L.L.C. d/b/a Tequila Sunset Bar & Grill, disclose, within 30 days of service of Defendant's Original Answer, the information or materials described in Rule 194.2(a)(1).

X. PRE- AND POST-JUDGMENT INTEREST

10.1 Plaintiff seeks recovery of pre- and post-judgment interest as allowed by law.

XI. RESERVATION OF RIGHTS

11.1 Plaintiff reserves the right to prove the amount of damages at trial. Plaintiff reserves the right to amend this petition to add additional counts upon further discovery and as the investigation continues.

XII. REQUEST FOR JURY TRIAL

12.1 Plaintiff, in accordance with Rule 216 of the Texas Rules of Civil Procedure, requests a trial by jury and hereby tenders the jury fee with this filing.

XIII. CONDITIONS PRECEDENT

13.1 Pursuant to Rule 54 of the Texas Rules of Civil Procedure, all conditions precedent to Plaintiff's right to recover herein have been performed or have occurred.

PRAYER

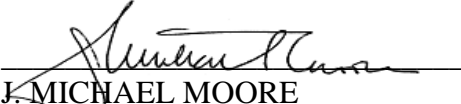
WHEREFORE, PREMISES CONSIDERED, Plaintiffs ask that Defendants be cited to appear and answer herein, that a temporary restraining order be issued without notice to Defendants, that the Court set a hearing on Plaintiffs' application for a temporary injunction, and that upon a final hearing of the cause, judgment be entered for Plaintiffs against Defendants for:

- a) All wrongful death damages;
- b) All survival damages;
- c) Exemplary damages;
- d) Pre-judgment interest as allowed by law;
- e) Post-judgment interest as allowed by law;
- f) Costs of suit;
- g) A temporary restraining order, temporary injunction, and permanent injunction as requested herein; and
- h) Such other and further relief to which Plaintiffs may be entitled at law or in equity.

Respectfully Submitted,

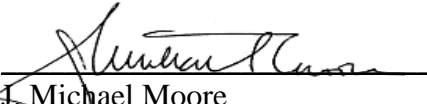
MOORE LAW FIRM
4900 North 10th Street, Suite F3
McAllen, Texas 78504
Telephone: (956) 631-0745
Telecopier: (866) 266-0971
Email: lit-docket@moore-firm.com

By:


J. MICHAEL MOORE
State Bar No. 14349550
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that on this 3rd day of July, 2024, a true and correct copy of the above and foregoing instrument was forwarded to all counsel of record, as indicated below, in accordance with the Texas Rules of Civil Procedure.


J. Michael Moore