

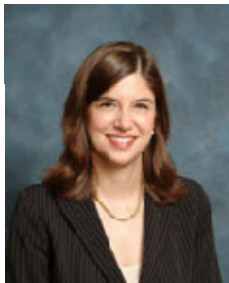
Ripped from the HEADLINES

Avoiding Liability and Negative
Publicity by Taking Lessons from
Actual News Stories

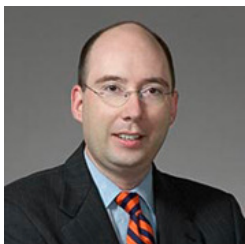
Presenters



- **David T. Denney**
- The Law Offices of David T. Denney, PC – Dallas, Texas www.foodbevlaw.com ;
- Food, Beverage and Hospitality Practice focuses on the formation, purchase and sale of entities, private placement of securities, corporate transactions, leasing, civil litigation, employment issues & beverage alcohol licensing; and
- Author and speaker for various publications and conferences.



- **Elizabeth DeConti**
- Shareholder at GrayRobinson, P.A. with national practice in alcohol beverage and food law;
- Litigator focusing on dram shop litigation and other liability issues of concern to sellers of alcohol beverages and food; and
- Counsels clients on best practices, litigation defense, trade practices, and promotions and social media law .



- **Christian Stegmaier**
- Shareholder, Collins & Lacy, PC, Columbia, South Carolina www.collinsandlacy.com;
- Chairman, Retail/Hospitality/Entertainment Practice Group. Personal practice focus: Alcohol liability; food claims; premises liability; third party tort; and
- Adjunct Professor, Hotel & Restaurant Law, University of South Carolina.

Calif. Eatery Gives Toddler Margarita

Toddler Gets Sick After Calif. Applebee's Accidentally Serves Margarita in his Sippy Cup

- “The apple juice and margarita mix were **stored in identical plastic bottles**, and **the manager** mistakenly grabbed the margarita container to pour the boy's drink”
- “He grew drowsy and started vomiting a few hours later, and was rushed to the hospital.”
- “[They] will be reimbursed for their medical bills, and the franchise group's restaurants will no longer serve apple juice and margaritas in similar containers.”

Woman Allegedly Bites Into Roach at Fort Worth Restaurant

- “...she found a cockroach in her food after taking a bite out of a potato skin she ordered at the Bennigan's **on South Hulen Street**”
- “According to a report made by the Fort Worth Health Department, who inspected the restaurant the next day, **four roaches were found near the grilling area** during the inspection and they **issued the restaurant five other violations.**”
- “An **on-duty manager** at the restaurant said the entire restaurant was fumigated on Monday. **Receipts from the service show the pest company found even more roaches in the kitchen and the bar.**”

Family of Woman Killed in Crash Sues Bar that Served Officer

- “Family members of a Fort Worth woman killed in a December wreck involving an allegedly intoxicated off-duty Fort Worth police officer filed suit Thursday against the Fort Worth bar at which the officer had been drinking.”
- “**At a news conference** in Dallas this morning, attorney Jeff Rasansky said the family [of the decedent] decided to sue [the bar] not as a quest for money, but to hold such establishments accountable for over-serving patrons and ‘**placing profits ahead of safety.**’”
- Plaintiffs settled with bar for \$975,000 one year after the accident.

Torched Woman Sues After Stunt at Brother Jimmy's Turns Horrific

MOLOTOV COCKTAIL: Gal Sues Bar Over Flame

Drink **HORROR**

- “A Manhattan woman **who went up in flames to "Great Balls of Fire"** when a bartender lit a match to 151-proof booze is firing back in court.”
- “Lauren Sclafani is suing the owners of the Brother Jimmy's chain of barbecue restaurants after she suffered **second- and third-degree burns** in March in a fiery stunt gone bad.”
- ““ I can't understand why they would light the bar on fire,’ she said. ‘It's mind-boggling to me that they would put so many people in peril.’”

Medical Research into Injuries from Burning Drinks

Journal of Burn Care and Research, Jan/Feb 2006, V. 27(1)

Face Burns Caused by Flambé Drinks

Reviewed medical records of **25 patients** admitted to one hospital in **30-month period**

Journal of the International Society for Burn Injuries, Mar. 2008, V.32(2)

Burns Due to Flaming Alcoholic Beverages in the UK

“The woman was sitting in front of the barman as he poured a flammable drink onto the bar and set it alight as part of a ‘show’. The flames ignited her clothing. She sustained 25% burns to her left arm, leg, chest and abdomen.”

Are Any of Your Restaurants/Bars on **You**Tube???



Calif. Man Sues Claim Jumper Over Condom in Soup

- “‘ Suddenly he felt what he believed was tough cheese on one side of his mouth,’ the suit reads. ‘When he could not chew it into pieces, he commented to his family that it felt like rubber. He spit it out, spooned it onto a napkin, at which time his wife said **'Oh my God, it's a condom.'**”
- “The suit reads that the condom had a knot in it, which was **later untied by the restaurant's general manager**, Marc Hadley, **because he thought it might be a rubber glove.**”

Man Sues Restaurant After Claiming to Find Condom in Soup (cont'd)

- “The restaurant didn't bill the family for the meal, and **the family took the condom with them** to have it tested.”
- A statement provided by a public relations firm that represents Claim Jumper said no evidence was found to support the claim, acknowledging that the guest found a "foreign object" in his food, but that **because he took it with him, there is no way to prove it is the same object that arrived at a lab for testing.**

Settlement Reached in Suit Against Claim Jumper Restaurant Chain Over Condom in Soup

- “The Hodouseks, who are real estate brokers, went to the Claim Jumper restaurant **at 27845 Santa Margarita Parkway** in Mission Viejo....”
- The company **earlier tried to resolve the case** with an offer of **\$5,001** to Sherry Hodousek and **\$25,001** to Philip Hodousek.
- ““Claim Jumper sincerely regrets, and apologizes for, statements which have appeared in the media which have cast Mr. and Mrs. Hodousek, in an unfavorable light. With the conclusion of this litigation, Claim Jumper wishes the plaintiffs well and sincerely hopes that they are successful in putting this regrettable incident behind them””

Family Claims Restaurant Ousted Them Over Disabled Daughter

- “The Johnsons said they never expected what happened as they lunched earlier this month at **The Great Wall Super Buffet in Plano**. It happened at the restaurant's **West Plano Parkway location**”
- “Two years ago, surgeons removed half of Makenna's brain. She can't walk, talk or communicate. She makes an "uhhh" sound whenever she wants more," explained Matt Johnson, her father. "She hits her chest and she says 'uhhh.' Definitely not any louder than the other kids in the restaurant.”
- Johnson, a pastor turned policeman, said **the restaurant manager marched over, stuffed suckers in her hand, then singled them out.**
- "He said ‘**Well, everyone's complaining. You need to go. You need to leave.**’ Johnson said ‘Are you serious?’”

Couple Suing Restaurant, Server in Hot Sauce Case

- “A Cleveland couple is suing the local **Steak ’n Shake** restaurant ... located at **220 Paul Huff Parkway** ... and an employee....”
- “Tim and Mary Gann took their son for dinner where the son ordered chili. The Steak ’n Shake employee, who is only listed in the complaint as “John Doe,” asked the boy if he wanted hot sauce.”

Couple Suing Restaurant, Server in Hot Sauce Case (cont'd)



- “The employee allegedly brought the minor the product *Blair’s Mega Death Sauce*, an item which is not customarily served at the restaurant chain.”
- “After ingesting the chili mixed with the hot sauce, **the child began suffering a severe physical reaction** and was rushed to SkyRidge Medical Center for treatment. The minor reportedly broke out in hives and had difficulty breathing and suffered severe pain and inflammation of his digestive system, including his mouth and throat.”

Video Prank at Dominoes Taints Brand

- “In videos posted on YouTube and elsewhere this week, **a Domino’s employee in Conover, N.C.**, prepared sandwiches for delivery **while putting cheese up his nose, nasal mucus on the sandwiches, and violating other health-code standards** while a fellow employee provided narration.”
- “By Wednesday afternoon, the video had been **viewed more than a million times** on YouTube. **References to it were in five of the 12 results on the first page of Google search for “Dominos,”** and discussions about Domino’s had spread throughout Twitter.

Video Prank at Dominoes Taints Brand (cont'd)

- As the company learned about the video on Tuesday, **executives decided not to respond aggressively, hoping the controversy would quiet down.** ‘What we missed was the perpetual mushroom effect of viral sensations,’ he said.”
- “‘We got blindsided by two idiots with a video camera and an awful idea,’” said a Domino’s spokesman, who added that the company was preparing a civil lawsuit. **‘Even people who’ve been with us as loyal customers for 10, 15, 20 years, people are second-guessing their relationship with Domino’s,** and that’s not fair.’”
- Subsequent news reports did not help Dominoes’ situation...

Video Prank at Dominoes Taints Brand (cont'd)



Video Prank at Dominoes Taints Brand (cont'd)

- According to Nation's Restaurant News, Dominoes later collected \$2 million from its Business Disruption insurance policy.

Fast Food Customers' Identities Stolen by Worker, Say Police

- “Police believe an employee at the restaurant used a handheld credit card skimmer to steal card information while at work.”
- “... at the Wendy’s restaurant **on International Blvd. in Tukwila.**”
- “Employee and 2 accomplices allegedly compromised **at least 135 accounts** to the tune of approximately **\$75,000.**”
- After searching the suspects’ homes, police found 2 skimmers, a credit card encoder, and credit card stock.
- “‘It was a pretty **sophisticated operation,**’ said police. ‘More than you’d expect from a fast-food outlet.’”

New Hepatitis Lawsuit Filed Against McDonalds

- “A year after people first started getting sick with hepatitis A ... Lawsuits are still being filed against the restaurant.”
- The suit, which **names the franchisee entity and the individual owner** of that company, claims the plaintiff “dined at the **McDonald’s, 400 W. 1st St.**”
- 18 lawsuits have been filed, as well as a class-action suit by those who had to receive immunizations after dining there.
- A \$500,000 preliminary settlement was approved in the class action (just for immunizations, not for sick people).

QUESTIONS?



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