MEMORANDUM

To: Halye Sugarman
From: Christine Graham
Date: April 28, 2014
Re.: Dylan v. Clooney

Question Presented:

Is the party host George Clooney who served limited alcohol at his party, liable under the theory of social host liability when his intoxicated guest, Lindsay Lohan left the party to recklessly drive, hit and seriously injure Bob Dylan?

Brief Answer:

No, George Clooney who did not serve alcohol is not liable for social host liability for injuries sustained by Bob Dylan from George’s intoxicated guest, Lindsay Lohan.

Facts:

Twenty-seven-year-old George Clooney just graduated law school, passed the bar and is a new owner of a condominium. He decided to celebrate with a B.Y.O.B., bring your own booze party. He supplied juice, buckets of ice, cups, bottle openers for wine and beer, and two bottles of champagne to share amongst thirty guests. Among his guests, arrived Lindsay Lohan at 8:00 p.m. She brought with her three bottles of Absolut vodka. George’s night was spent greeting the thirty guests, and thus was unable to keep tracking the amounts of alcohol they consumed or distinguish whether they drank alcohol or juice. He knew Lindsay was at the party because he remembered seeing her drink from a cup with unidentifiable liquid, and that she had been dancing. Lindsay left the party at midnight to go home and while on I-93, swerved precariously between lanes and hit the driver Bob Dylan. Bob sustained serious injuries and is suing George.

Discussion:

The issue presented is whether George Clooney who did not serve alcohol to his guest liable under the theory of social host liability for the injuries Bob Dylan sustained as a result of George’s intoxicated guest, Lindsay Lohan’s drunk driving. A host is liable if he knew or should have known his guest was drunk and permitted her to drink or if he controlled the supply of alcohol his guests drank. Social host liability makes it the responsibility of the host who serves or supplies the alcohol, to exercise awareness of a guest’s state of sobriety and jurisdiction over an intoxicated person’s right to drive. McGuiggan v. N.E. Telephone et al, 496 N.E. 2d 141 (Mass. 1986) In McGuiggan and in our case, neither host served alcohol. Therefore, George wouldn’t be obligated to notice and control Lindsay in her intoxicated state from leaving to drive.

The first element of social host liability is whether George Clooney knew or should have known that Lindsey was drunk and to not have permitted her to drive intoxicated, injuring the third party, Bob. A host is liable only if he knew or should have known his guest was drunk and permitted her to drink. In McGuiggan v. N.E. Telephone Co. et al, 496 N.E. 2d 141 (Mass 1986), the hosts who served alcohol and their guests were unaware that the driver was intoxicated and were confident of having him leave to drive the other guests home. This driver had no problem driving home, and the guests had commented he was a steady driver. The third party, an intoxicated passenger, who vomited out of the open window of a moving car, had hit his head on the plaintiff’s, cement pole and died. The plaintiff blamed the decease’s death on the host for the driver’s intoxication. The court held that the hosts’ were not liable because they did not see signs of intoxication. In this case, George who only supplied two bottles of champagne to split amongst thirty people did not serve additional alcohol. George was busy greeting thirty guests, and from his encounter with Lindsay had the impression that Lindsay was not intoxicated. George did not speak to Lindsay that night and when he saw her drinking; he could not make out what was in the cup she drank from. Therefore, George was unaware that Lindsay was drunk to be liable for her leaving to drive recklessly.

The next question of social host liability to consider is whether a social host is liable for controlling the supply and guests’ consumption of alcohol. A host is only liable if he or she supplies the alcohol. In Juliano v. Simpson, 962 N.E. 2d 175 (Mass. 2012), the host who did not supply the alcohol, knew her guest was extremely intoxicated and had even offered to drive him and his soon to be injured guest home. The intoxicated driver rejected the host’s offer to drive them home and he proceeded without the host’s interference to drive drunk at 90 m.p.h., hitting a utility pole; injuring his passenger. The court held that because the host didn’t serve the alcohol, that it relinquishes any liability on this host to control the driving guest’s drinking, even though the driver was noticeably intoxicated. In another case, Ulwick v. DeChristopher, 582 N.E. 2d 954 (Mass. 1991), the host did not supply the alcohol for his B.Y.O.B. party. His guest, Salvatore was observed drinking, mixing drinks and staggering on his feet. The host did not intervene in any way with Salvatore’s drinking and had permitted him in his intoxicated state to drive. Salvatore’s driving consisted of plowing through an oncoming police motorcyclist, seriously injuring him. The court held that the host was not liable for the injuries sustained a motorcycle officer even when he knew the guest who drove was extremely drunk, because he did not supply the alcohol. In our case, George’s two bottles of champagne were split amongst thirty guests; not enough for each person to become intoxicated. George did not serve Lindsay alcohol. Lindsay brought three bottles of her own vodka, drunk herself to intoxication, preceded to leave appearing fine to George and recklessly drove, hitting and injuring Bob. Therefore, George who did not offer alcohol was neither liable for not controlling the guest’s alcohol intake nor liable for not preventing the guest from driving.

Conclusion:

George Clooney who did not supply Lindsay Lohan alcohol, was not aware of her intoxication, and would not be liable for controlling her alcohol intake or prevent her from driving intoxicated. Therefore, George is not liable under social host liability for his lack of awareness of Lindsay’s intoxication that he needed to control her drinking and actions, since he did not serve the alcohol she brought and drunk herself.