

FILED

2015 SEP 11 P 3:17

MARY PANKEY, CIRCUIT CLERK  
BY   GX   DEPUTY

IN THE CIRCUIT COURT OF MILLER COUNTY, ARKANSAS  
Civil DIVISION

SHERON HAWKINS, INDIVIDUALLY AND AS  
THE ADMINISTRATOR OF THE ESTATE  
JERCARLOS HAWKINS, AND ALL STATUTORY  
BENEFICIARIES OF JERCARLOS HAWKINS  
UNDER THE ARKANSAS WRONGFUL DEATH  
ACT

PLAINTIFF

vs.

CASE NO. 46CV-15-211-2

CHAD M. CALDWELL; LAYIN' LOW, INC. D/B/A  
HOPKINS ICE HOUSE CLUB; HOPKINS  
ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE;  
DAVID JONES; GEORGE DODSON; MIKE  
ROGERS; JOHN DOES NOS. 1-6 AND JOHN DOE  
INSURANCE COMPANIES NOS. 1-6

DEFENDANTS

COMPLAINT

Plaintiff, Sheron Hawkins, Individually and as Administrator of the Estate of Jercarlos Hawkins, Deceased, and all statutory beneficiaries of Jercarlos Hawkins under the Arkansas Wrongful Death Act, (Plaintiff) for her complaint pleads as follows:

PARTIES

1. Sheron Hawkins, was a resident of Bowie County, Texas at all times pertinent to this cause of action. She was appointed Administrator of the Estate of Jercarlos Hawkins by the Order of the Bowie County Texas County Court, on June 11, 2014. Plaintiff was appointed Administrator of the Estate of Jercarlos Hawkins in an ancillary probate proceeding in Miller County, Arkansas on May 28, 2015. Jercarlos Hawkins was a resident of Bowie County, Texas at all times pertinent to this cause of action.

2. At all times pertinent to this cause of action, Defendant Caldwell was a resident of Cass County, 19638 HWY 59N, Queen City, Texas. Defendant Caldwell is currently incarcerated at Joe F. Gurney Unit, 1385 FM 3328, Tennessee Colony, Texas, 75803 and may be served with Summons pursuant to ARCP 4 or by serving the Secretary of State of Arkansas as the designated agent of service for said Defendant.

3. Defendants LAYIN' LOW, INC. D/B/A HOPKINS ICE HOUSE CLUB; HOPKINS ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE; DAVID JONES; GEORGE DODSON; MIKE ROGERS; and JOHN DOES NOS. 1-6 are collectively referred to as the Alcohol Provider Defendants.

4. Defendant LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB is an Arkansas non-profit corporation doing business in Texarkana, Miller County, Arkansas as HOPKINS ICEHOUSE CLUB. Said corporation may be served with summons through its registered agent, Steve Harrelson, 300 N. State Line Avenue, Texarkana, Arkansas 71854 or, alternatively, pursuant to ARCP 4., or alternatively, through any other registered agent or officer such as its President, DAVID JONES or pursuant to ARCP 4.

5. HOPKINS ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE is an Arkansas for-profit corporation doing business in Texarkana, Miller County, Arkansas as HOPKINS ICEHOUSE. Said Defendant may be served with process through its registered agent, Steve Harrelson, 300 N. State Line Avenue, Texarkana, Arkansas 71854 or, alternatively, pursuant to ARCP 4.

6. DAVID JONES is an individual who serves as an Incorporator/Organizer of LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB and HOPKINS ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE and also serves as President of HOPKINS ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE and also serves as both President and Vice-President of LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB. Said Defendant, individually, and in his corporate capacity as Incorporator/Organizer, President, Vice-President, and manager of said DEFENDANTS has individually, and in his capacity as officer of each of these DEFENDANTS, engaged in business and has committed torts, acts and/or omissions as set forth in this Complaint which sufficiently avails him of the protection of the laws of the State of Arkansas and which provides sufficient minimum contacts with Arkansas and Miller County, Arkansas to such an extent that this court's exercise of jurisdiction is consistent with traditional notions of fair play and substantial justice. Said Defendant may be served with process in his individual capacity at 4215 Savannah Circle, Texarkana, Texas 75501 and in his capacity as Incorporator/Organizer, President, Vice-President, and manager of said DEFENDANTS by serving the registered agent for service of LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB, Steve Harrelson, at 300 N. State Line Avenue, Texarkana, Arkansas 71854, or alternatively, serving DAVID JONES as President of LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB and by serving the registered agent for service of HOPKINS ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE, Steve Harrelson, at 300 N. State Line Avenue,

Texarkana, Arkansas 71854, pursuant to ARCP 4, or by serving the Secretary of State of Arkansas as the designated agent of service for said Defendant.

7. GEORGE DODSON is an individual who serves as an Incorporator/Organizer of LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB and HOPKINS ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE and also serves as Vice-President of HOPKINS ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE and serves as Secretary of LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB. Said Defendant, individually, and in his corporate capacity as Incorporator/Organizer, Vice-President, Secretary, and manager of said DEFENDANTS has individually, and in his capacity as officer of each these DEFENDANTS, engaged in business and committed torts, acts and/or omissions as set forth in this Complaint which sufficiently avails him of the protection of the laws of the State of Arkansas and which provides sufficient minimum contacts with Arkansas and Miller County, Arkansas to such an extent that this court's exercise of jurisdiction is consistent with traditional notions of fair play and substantial justice. Said Defendant may be served with summons and Complaint in his individual capacity at 2423 Wood St. Texarkana, Texas 75503 and in his capacity as Incorporator/Organizer, Vice-President, Secretary, and manager of said DEFENDANTS by serving the registered agent for service of LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB, Steve Harrelson, at 300 N. State Line Avenue, Texarkana, Arkansas 71854, or alternatively, serving GEORGE DODSON as Secretary of LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB and by serving the registered agent for service of HOPKINS ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE, Steve Harrelson, at 300 N.

State Line Avenue, Texarkana, Arkansas 71854, pursuant to ARCP 4, or by serving the Secretary of State of Arkansas as the designated agent of service for said Defendant.

8. MIKE ROGERS is an individual who serves as the Permit Holder of LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB and/or HOPKINS ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE. Said Defendant, individually, and in his corporate capacity as Permit Holder and manager of said DEFENDANTS has individually, and in his capacity as Permit Holder and manager of each of these DEFENDANTS, engaged in business and committed torts, acts and/or omissions as set forth in this Complaint which sufficiently avails him of the protection of the laws of the State of Arkansas and which provides sufficient minimum contacts with Arkansas and Miller County, Arkansas to such an extent that this court's exercise of jurisdiction is consistent with traditional notions of fair play and substantial justice. Said Defendant may be served with summons and Complaint in his individual capacity at 5310 Jack Cullen Drive, Texarkana, Arkansas 71854 and in his capacity as Permit Holder and manager of said DEFENDANTS. Alternatively, said Defendant may be by served in his capacity as Permit Holder and manager of said DEFENDANTS by serving the registered agent for service of LAYIN' LOW, INC. D/B/A HOPKINS ICEHOUSE CLUB, Steve Harrelson, at 300 N. State Line Avenue, Texarkana, Arkansas 71854 and by serving the registered agent for service of HOPKINS ICEHOUSE INC. D/B/A HOPKINS ICEHOUSE, Steve Harrelson, at 300 N. State Line Avenue, Texarkana, Arkansas 71854, or pursuant to ARCP 4.

9. Defendants may have valid liability insurance policies presently unknown to Plaintiff to cover their negligent acts and/or the negligent acts of their agents, servants, and/or employees related to Plaintiff's allegations made in this Complaint. Further, other individuals and/or entities may be liable or may be real parties in interest in this matter. The identities of any additional liability insurance carrier(s) providing any insurance coverage for Defendants or the identities of any individuals and/or entities not specifically identified herein who may have liability are unknown at this time. Pursuant to Ark. Code Ann. § 23-79-210 and Ark. Code Ann. § 16-56-125, John Does Nos. 1-6 and John Doe Insurance Companies Nos. 1-6 are hereby made Defendants. Until such time that the proper identities of the Defendants John Doe Nos. 1-6 and Defendants John Doe Insurance Companies Nos. 1-6 are made known, Plaintiff will not be able to serve process on Defendants John Doe Nos. 1-6 and Defendants John Doe Insurance Companies Nos. 1-6. Defendants are being properly served with notice that the Plaintiff is naming John Does Nos. 1-6 and John Doe Insurance Companies Nos. 1-6 as parties to this action. An affidavit executed by M. Chad Trammell, attorney for the Plaintiff, is attached marked as Exhibit A pursuant to Arkansas Code Ann § 16-56-125(c).

#### JURISDICTION AND VENUE

10. The venue is proper in this Court pursuant to Arkansas Code Ann § 16-55-213(a)(2)(A). This Court has personal jurisdiction over the parties pursuant to Arkansas Code Ann § 16-4-101(B). This Court has subject matter jurisdiction pursuant to Arkansas Code Ann § 16-62-101, *et seq.* and Arkansas Code Ann § 16-62-102, *et seq.*

## STATEMENT OF FACTS

11. On September 28, 2013, and continuing to September 29, 2013, Defendant Caldwell arrived at Hopkins Icehouse Bar and consumed approximately 20 beers and three to five mixed drinks. Defendant Hopkins Icehouse Bar continued to serve Defendant Caldwell intoxicating beverages well after he became visibly intoxicated. Defendant Hopkins Icehouse Bar allowed Defendant Caldwell to leave its premises in a state of visible intoxication without making any attempts to "sober him up." Defendant Caldwell later went to his automobile and at approximately 2 A.M. ran a stop light at the intersection of West 14<sup>th</sup> Street and North Stateline Avenue in Texarkana, Texas and collided with the automobile being driven by Tameka Pavon in which Jercarlos Hawkins was riding along with Genaro Camacho. Ms. Pavon and Mr. Hawkins were killed and Mr. Camacho was seriously injured. Mr. Caldwell was intoxicated at the time. At 3:22 A.M. his blood alcohol level was 0.301. He has since pleaded guilty to two counts of intoxication manslaughter and one count of intoxication assault and is serving 20 years in the Texas Department of Criminal Justice.

### COUNT 1 ALLEGATIONS OF NEGLIGENCE AS TO ALCOHOL PROVIDER DEFENDANTS

12. At all times pertinent to this cause of action, the Alcohol Provider Defendants were negligent in the operation of their establishments and such negligence was a proximate cause of the damages sustained by Plaintiff. Their negligence consists of, but is not limited to, the following:

(a) Selling alcohol to Defendant Caldwell when he was clearly and visibly intoxicated;

(b) Failing to employ competent and properly trained employees to observe the signs and symptoms of intoxication, and particularly that of Defendant Caldwell;

(c) Failing to properly train its employees to observe the signs and symptoms of intoxication of its patrons, especially Defendant Caldwell;

(d) Failing to refuse to sell and provide alcohol to Defendant Caldwell when its employees knew or should have known he was intoxicated;

(e) Failing to provide proper supervision and instruction to its employees as to the necessary actions to take at a time when they knew or should have known that Defendant Caldwell was intoxicated;

(f) Failing to follow its own policies and procedures regarding observations of patrons of its establishment, such as Defendant Caldwell, who are intoxicated and to take the appropriate actions under those circumstances; and

(g) Violating the laws of the State of Arkansas.

#### COUNT 2

#### LIABILITY FOR THE SALE OF ALCOHOL TO AN INTOXICATED PERSON PURSUANT TO ARK. CODE ANN. § 16-126-104

13. The Alcohol Provider Defendants did knowingly sell and continued to sell alcoholic beverages to a clearly intoxicated person, Defendant Caldwell, in violation of Ark. Code. Ann. §16-126-104, when they knew or should have known that continuing to sell alcohol to a clearly intoxicated individual could cause serious harm, injury and result in the death to third parties. The sale of said alcoholic beverages by the Alcohol

Provider Defendants to Defendant Caldwell was the proximate cause of the injuries sustained by the Plaintiff. At the time the Alcohol Provider Defendants sold the alcoholic beverages to Defendant Caldwell, he was knowingly intoxicated and represented a clear danger to others. Said sales of alcohol to Defendant Caldwell resulted in further and increased intoxication, leading to the impaired driving ability that resulted in the wreck on September 29, 2013, as referred to in this complaint, giving rise to this cause of action. Further, there exists no reasonable basis upon which it could have been assumed by the Alcohol Provider Defendants that Defendant Caldwell was not intoxicated at a time when he was present in these respective establishments and being served alcohol there.

**COUNT 3**  
**NEGLIGENCE AS TO CHAD CALDWELL**

14. Defendant Chad Caldwell was negligent in the operation of his vehicle, and such negligence was a proximate cause of the damages sustained by Plaintiff. Said negligence consists of, but is not limited to, the following:

- (a) Failing to operate a motor vehicle in a safe, responsible, and prudent manner;
- (b) Failing to keep a proper lookout;
- (c) Failing to keep his motor vehicle under control;
- (d) Failing to drive his motor vehicle at a reasonable and prudent rate of speed;
- (e) Driving while intoxicated; and
- (f) Violating the laws of the State of Arkansas.

### DAMAGES

15. Defendants by and through their employees, officers and personnel knew, or ought to have known, in light of the surrounding circumstances that their conduct, as set forth in this complaint, would naturally and probably result in injury and death to third parties, and they continued such conduct in reckless disregard of the consequences from which malice may be inferred giving rise to a claim by the Plaintiff for punitive damages.

16. At all times pertinent to this cause, Plaintiff and Jercarlos Hawkins were free from fault and did not do anything to cause or to contribute to the cause of their injuries and damages as alleged herein.

17. As a proximate result of the sale of alcohol by the Alcohol Provider Defendants to Defendant Caldwell at a time when he was clearly intoxicated, and the aforementioned negligence of Defendant Caldwell, Plaintiff is entitled to recover from all of the Defendants, jointly and severally, the following elements of damages:

- (a) Conscious pain and suffering and mental anguish suffered by Jercarlos Hawkins prior to his death;
- (b) Medical expenses incurred on behalf of Jercarlos Hawkins;
- (c) Funeral expenses of Jercarlos Hawkins;
- (d) Loss of life of Jercarlos Hawkins;
- (e) Mental anguish suffered in the past and reasonably expected to be suffered in the future by the wrongful death beneficiaries of Jercarlos Hawkins;
- (f) Property damages; and,

(g) Punitive damages.

All in an amount in excess of that necessary for federal court diversity jurisdiction.

WHEREFORE, Plaintiff requests a judgment for compensatory and punitive damages, jointly and severally, against Defendants within any minimum or maximum jurisdictional limits of this Court, for costs herein expended, and for any and all other relief to which she may be entitled whether specifically prayed for herein or not.

**DEMAND FOR JURY TRIAL**

The Plaintiff herein respectfully demands a trial by jury on all issues pursuant to Rule 38 of the Arkansas Rules of Civil Procedure.

Respectfully submitted by:

**TRAMMELL PIAZZA LAW FIRM, PLLC**



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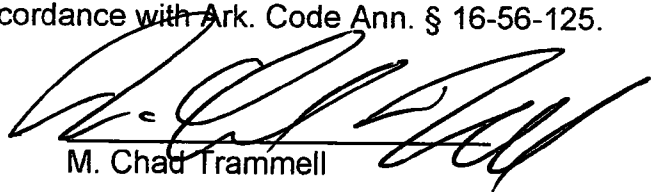
And

Hawley Holman AR – 77019  
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1905 Mall Drive  
Texarkana, Texas 75503  
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Facsimile: 903.792.3762

**AFFIDAVIT**

Come now the undersigned and solemnly swears that the following facts and information are true and correct to the best of my knowledge and belief:

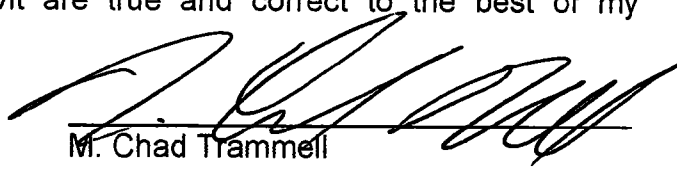
1. I am the attorney for the Plaintiff in the attached pleading.
2. Neither I, nor my client knows the identities of the John and Jane Doe designations set forth in the pleading.
3. Upon determining the identity of the unknown parties for the injuries and damages sustained by Plaintiffs, I will timely amend the Complaint to specifically designate the names of the unknown parties.
4. This Affidavit is filed in accordance with Ark. Code Ann. § 16-56-125.

  
 M. Chad Trammell

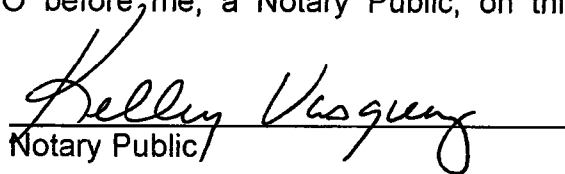
**VERIFICATION**

STATE OF ARKANSAS            )  
   )  
 COUNTY OF MILLER            )

I, M. Chad Trammell, state upon oath that the facts and allegations contained in the foregoing Affidavit are true and correct to the best of my knowledge, information, and belief.

  
 M. Chad Trammell

11<sup>th</sup> SUBSCRIBED AND SWORN TO before me, a Notary Public, on this day of September, 2015.

  
 Notary Public

My Commission Expires:  
3-28-22

