

HARRIS COUNTY**DRAM SHOP**

Negligent Service of Alcohol

Man fatally struck by train after drinking at bar for several hours**VERDICT** **\$1,047,000****CASE** Robert Barton and Marlene Barton individually and as representatives of the Estate of Michael Barton v. Porter Private Club Corp. d.b.a. Porter Cocktail Lounge, No. 2011-53765**COURT** Harris County District Court, 270th, TX
JUDGE Brent M. Gamble
DATE 4/10/2013**PLAINTIFF**
ATTORNEY(S) Spencer G. Markle (lead), Markle DeLaCruz LLP, Houston, TX
 Obed DeLaCruz, Markle DeLaCruz LLP, Houston, TX**DEFENSE**
ATTORNEY(S) Willis E. Smith, Kingwood, TX**FACTS & ALLEGATIONS** On June 10, 2011, plaintiff's decedent Michael Barton, a 40-year-old construction worker, was seen leaving the Porter Cocktail Lounge in Porter at approximately 11:30 p.m. His body was found next to nearby railroad tracks at approximately 7 a.m. on June 11. The cause of death was found to be injuries sustained due to being struck by a train. Time of death was not determined.

Barton's parents, individually and on behalf of his estate, sued Porter Cocktail Lounge, claiming dram shop violations. Barton's family claimed that he had been drinking in the lounge since 2:30 p.m. and was repeatedly served despite being visibly intoxicated. Barton walked onto the tracks and was struck by a train due to his intoxication, the family claimed.

Porter Cocktail Lounge denied dram shop violations and denied that Barton was visibly intoxicated. The defendant argued that potentially several hours passed between when Barton was last served at the lounge and his death, so it wasn't possible to establish his service at the lounge as the proximate cause.

INJURIES/DAMAGES *death*

Barton sustained massive blunt force injuries and died an undetermined amount of time after being struck by a train. His family sought \$1,538.07 for funeral expenses and an unspecified amount for pre-death pain and suffering and past and future emotional distress and lost pecuniary contribution.

RESULT The jury found Porter Cocktail Lounge liable and awarded the plaintiffs \$1,047,000.**ESTATE OF**
MICHAEL
BARTON \$750,000 past pain and suffering
 \$5,000 funeral burial expense
 \$755,000**MARLENE**
BARTON \$1,000 past loss of pecuniary contribution
 \$20,000 future loss of pecuniary contribution
 \$50,000 past mental anguish
 \$75,000 future mental anguish
 \$146,000**ROBERT**
BARTON \$1,000 past loss of pecuniary contribution
 \$20,000 future loss of pecuniary contribution
 \$50,000 past mental anguish
 \$75,000 future mental anguish
 \$146,000**DEMAND** \$50,000**TRIAL DETAILS** Trial Length: 2 days
 Trial Deliberations: 2 hours
 Jury Vote: 11-1**EDITOR'S NOTE** This report is based on information that was provided by plaintiff's counsel. Defense counsel did not respond to calls for comment.

—Rick Archer

BREACH OF CONTRACT

Fraud — Breach of Fiduciary Duty — Conversion

Plaintiff didn't receive share of profits, she alleged**VERDICT** **\$1,059,000**
ACTUAL **\$1,081,620****CASE** Norma Aguirre v. Sylvia V. Garcia and Joel M. Garcia, No. 201080560**COURT** Harris County District Court, 269th, TX
JUDGE Dan Hinde
DATE 3/25/2013**PLAINTIFF**
ATTORNEY(S) Derek Michael Harkrider, Law Office of Derek M. Harkrider, Edinburg, TX