

IN THE CIRCUIT COURT OF THE SEVENTH
JUDICIAL CIRCUIT IN AND FOR FLAGLER
COUNTY, FLORIDA

CIVIL DIVISION

CASE NO. 2018 CA 000222

JANICE A. ST. PETER, as Personal
Representative of the ESTATE OF
GARY R. ST. PETER,

Plaintiff,

vs.

DAVID ZLOKAS and UNCAGED
TASTING ROOM LLC, a Florida
Limited Liability Company,

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, JANICE A. ST. PETER, as Personal Representative of the ESTATE OF GARY R. ST. PETER (“ESTATE”), by and through her undersigned attorneys, sues defendants, DAVID ZLOKAS (“ZLOKAS”) and UNCAGED TASTING ROOM LLC, a Florida Limited Liability Company (“UNCAGED”), and alleges:

Allegations Common to All Counts

1. This is an action for damages greatly in excess of the minimal jurisdictional limits of this Court, \$15,000.00.

2. At all times material hereto, until his death, GARY R. ST. PETER was a citizen of the State of Florida and a resident of Flagler County.

3. GARY R. ST. PETER died on November 2, 2017, in Flagler County, Florida.

4. At all times material hereto, until her husband’s death, JANICE A. ST. PETER was the wife of GARY R. ST. PETER.

5. JANICE A. ST. PETER is the duly authorized and appointed Personal Representative of the ESTATE, which was duly established in Flagler County, Florida.

6. At all times material hereto, ZLOKAS was a citizen of the State of Florida and a resident of Flagler County.

7. At all times material hereto, UNCAGED was a Florida Limited Liability Company whose business included selling or furnishing alcoholic beverages from an establishment located in Flagler County, Florida (“the establishment”).

8. All incidents giving rise to this action occurred in Flagler County, Florida.

9. On November 2, 2017, ZLOKAS consumed alcoholic beverages sold or furnished to him by UNCAGED, at the establishment.

10. As a direct and proximate result of consuming the alcoholic beverages sold or furnished to him by UNCAGED at the establishment, ZLOKAS came under the influence of such alcoholic beverages and was affected to the extent that his normal faculties were impaired.

11. On November 2, 2017, ZLOKAS owned a 2014 Ford Mustang.

12. On November 2, 2017, after leaving the establishment, ZLOKAS operated his 2014 Ford Mustang on State Road A1A. At that time and place, GARY R. ST. PETER was a seat-belted passenger in the vehicle.

13. At that time and place, ZLOKAS negligently operated his motor vehicle while still under the influence of alcoholic beverages sold or furnished to him by UNCAGED at the establishment. ZLOKAS was affected to the extent that his normal faculties were impaired.

14. At that time and place, ZLOKAS negligently operated his motor vehicle with a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood.

15. At that time and place, ZLOKAS negligently operated his motor vehicle with a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

16. At that time and place, ZLOKAS negligently operated his motor vehicle and, as a direct and proximate result of such negligence, his motor vehicle left the roadway and violently collided with two or more palm trees (“the subject crash”).

17. As a direct and proximate result of the subject crash, GARY R. ST. PETER was injured and died on November 2, 2017.

18. JANICE A. ST. PETER brings this action on behalf of the ESTATE and on behalf of the survivor of GARY R. ST. PETER.

19. Pursuant to Section 768.21, *Florida Statutes*, the potential beneficiaries of a recovery are:

- A. The ESTATE and
- B. JANICE A. ST. PETER, surviving spouse of GARY R. ST. PETER.

COUNT I – ZLOKAS

20. Plaintiff realleges the allegations of paragraphs 1 through 19 herein.

21. As a direct and proximate result of the foregoing negligence of ZLOKAS, plaintiff has sustained significant damages. Plaintiff seeks all elements of damage recoverable under the Florida Wrongful Death Act, to include:

- A. JANICE A. ST. PETER’s loss of support and services from the date of death, reduced to present value;
- B. JANICE A. ST. PETER’s loss of the decedent’s companionship and protection and for mental pain and suffering from the date of injury and death;

- C. Medical and funeral expenses incurred as a result of GARY R. ST. PETER's injury and death; and
- D. The ESTATE's loss of prospective net accumulations, reduced to present money value.

WHEREFORE, plaintiff, JANICE A. ST. PETER, as Personal Representative of the ESTATE OF GARY R. ST. PETER, demands judgment against defendant, DAVID ZLOKAS, for damages in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00), plus interest and costs of this action, and further demands a trial by jury. Plaintiff specifically reserves the right to later amend the complaint to add a claim for punitive damages.

COUNT II – UNCAGED

22. Plaintiff realleges the allegations of paragraphs 1 through 19 herein.

23. On occasions prior to November 2, 2017, ZLOKAS had come under the influence as a direct and proximate result of consuming alcoholic beverages sold or furnished to him by UNCAGED at the establishment. ZLOKAS had become affected to the extent that his normal faculties became impaired.

24. Based on its prior experience of selling or furnishing alcoholic beverages to ZLOKAS, UNCAGED knew ZLOKAS was habitually addicted to the use of any or all alcoholic beverages.

25. Furthermore, based on its experience of selling or furnishing alcoholic beverages to ZLOKAS on November 2, 2017, UNCAGED knew ZLOKAS was habitually addicted to the use of any or all alcoholic beverages.

26. Furthermore, the servers employed by UNCAGED who sold or furnished alcoholic beverages to ZLOKAS on November 2, 2017 ("the servers"), also personally knew

ZLOKAS and otherwise knew ZLOKAS was habitually addicted to the use of any or all alcoholic beverages.

27. At all times material hereto, the servers were acting in the course and scope of their employment for UNCAGED.

28. Furthermore, based on the totality of all the facts and circumstances, at all times material hereto UNCAGED knew ZLOKAS was habitually addicted to the use of any or all alcoholic beverages.

29. On November 2, 2017, UNCAGED, through the servers and others, knowingly sold or furnished alcoholic beverages to ZLOKAS despite the knowledge that he was habitually addicted to the use of any or all alcoholic beverages.

30. UNCAGED negligently and unreasonably sold or furnished alcoholic beverages to ZLOKAS.

31. On November 2, 2017, ZLOKAS left the establishment under the influence of the alcoholic beverages he had been sold or furnished by UNCAGED. ZLOKAS was affected to the extent that his normal faculties were impaired.

32. Immediately upon leaving the establishment, ZLOKAS began operating his 2014 Ford Mustang.

33. By knowingly serving alcoholic beverages to a person habitually addicted to the use of any or all alcoholic beverages, UNCAGED violated Section 768.125, *Florida Statutes*.

34. UNCAGED is liable for damages caused by or resulting from ZLOKAS's intoxication while operating his 2014 Ford Mustang.

35. As a direct and proximate result of the foregoing, plaintiff has sustained significant damages. Plaintiff seeks all elements of damage recoverable under the Florida Wrongful Death Act, to include:

- A. JANICE A. ST. PETER's loss of support and services from the date of death, reduced to present value;
- B. JANICE A. ST. PETER's loss of the decedent's companionship and protection and for mental pain and suffering from the date of injury and death;
- C. Medical and funeral expenses incurred as a result of GARY R. ST. PETER's injury and death; and
- D. The ESTATE's loss of prospective net accumulations, reduced to present money value.

WHEREFORE, plaintiff, JANICE A. ST. PETER, as Personal Representative of the ESTATE OF GARY R. ST. PETER, demands judgment against defendant, UNCAGED TASTING ROOM LLC, a Florida Limited Liability Company, for damages in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00), plus interest and costs of this action, and further demands a trial by jury.

Dated this 17th day of April, 2018.

LESSER, LESSER, LANDY & SMITH, PLLC
Gary S. Lesser, Esquire
Michael S. Smith, Esquire
101 Northpoint Parkway
West Palm Beach, FL 33407
Phone: (561) 655-2028
Fax: (561) 655-2033
Attorneys for Plaintiff

s/ Michael S. Smith

Michael S. Smith

Florida Bar #508926

E-Mail: msmith@lesserlawfirm.com and
mcarney@lesserlawfirm.com