

The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

September 2009

Statewide Jury Verdict Coverage

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Unbiased and Independently Researched Jury Verdict Results

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Tennessee including court, division, presiding judge, parties, case number, attorneys and results.

Dram Shop - A patron at Ruby Tuesday was served multiple drinks (the equivalent of 19 beers) – in a drunken rage, the patron struck the plaintiff in the face with a beer mug – the plaintiff sued Ruby Tuesday and presented a dram shop theory – a Murfreesboro jury awarded punitive damages of \$10,000,000
Maddy v. Ruby Tuesday, 53641
Plaintiff: Joseph G. DeGaetano, *DeGaetano Law Firm*, Chattanooga and George H. Nolan, *Leader Bulson Nolan & Burstein*, Nashville
Defense: Paul M. Buchanan, *Ortale Kelley Herbert & Crawford*, Nashville
Verdict: \$10,035,000 for plaintiff
Court: **Rutherford**
Judge: Mark Rogers
8-29-09

Dan Maddy, an aircraft mechanic, was in Smyrna on 8-21-05 to work on an airplane. He ate dinner that evening at a Ruby Tuesday restaurant. During the course of the night, he had politely conversed briefly with another patron, Kenneth Comfort. Comfort drank to excess this night.

As evidenced by security video, he ordered and was served 5 double-draft (22 ounce beers) and four more double-shots of a mint-flavored spirit, Rumpelintz. Then in a drunken rage, Comfort attacked Maddy. Comfort struck him in the face with a beer mug.

Upon impact, the beer mug shattered and cut Maddy down the face and onto his neck and chest as the broken glass raked across him. The wounds required more than 100 stitches. Maddy has been left with permanent scarring. For his part, Comfort later pled to an aggravated assault charge and served some six months in jail.

In this statutory dram shop litigation, Maddy sought damages from Ruby Tuesday. His theory was quite simple –

it should not have served alcohol to the obviously intoxicated Comfort – he further postured that it was this excessive dosage of alcohol (it was described as equivalent to 19 beers) that led to the attack. That Comfort was obviously drunk and Ruby Tuesday should have so perceived him, the investigating police officer described Comfort as the second most drunk suspect he'd ever seen. If Maddy prevailed at trial, he sought both compensatory and punitive damages. [He did not claim medical expenses.]

Ruby Tuesday defended the case that the service of the multiple drinks to Comfort was not excessive – in this same regard, its bartender postured that Comfort did not appear intoxicated. Then to proximate cause, Ruby Tuesday further defended that even if an intoxicated Comfort had been served alcohol, that action had not caused Maddy's injuries. That is, alcohol is not a violent trigger, the sole proximate cause of Maddy's injuries then being Comfort's own violence. [This defense was all or nothing, there not being any apportionment between the non-party Comfort and the restaurant.]

Maddy prevailed on the dram shop liability count, this jury finding that Ruby Tuesday had served an intoxicated patron and that this was a proximate cause of his injuries. Maddy was awarded \$25,000 for his suffering and \$10,000 more for disfigurement, compensatory damages totaling \$35,000. It also found in favor of punitives. Deliberating punitive damages the next day (a Friday), Maddy was awarded \$10,000,000. The verdict totaled \$10,035,000 and presumably a judgment will be entered in that sum.