

13-1663. Common law liquor liability to a patron.

To establish the claim against _____ (*name of defendant seller or server*) for wrongfully providing alcohol, _____ (*name of plaintiff*) has the burden of proving the following elements:

1. [_____ (*name of defendant*)] [or] [_____ (*name of defendant's agent(s) or employee(s)*)] sold, served or provided alcoholic beverages to _____ (*name of patron*) while [he] [she] was intoxicated;

2. [_____ (*name of defendant*)] [or] [_____ (*name of defendant's agent(s) or employee(s)*)] knew or should have known from the circumstances that _____ (*name of patron*) was intoxicated;

3. [_____ (*name of defendant*)] [or] [_____ (*name of defendant's agent(s) or employee(s)*)] acted with gross negligence and reckless disregard for the safety of _____ (*name of plaintiff*).

In addition, _____ (*name of plaintiff*) has the burden of proving that [_____ (*name of defendant*)'s] [or] [_____ (*name of defendant's agent(s) or employee(s)*)'s] sale, service, or provision of alcoholic beverages was a cause of _____ (*name of plaintiff*)'s [injuries and] damages.

USE NOTES

This is the basic instruction for a common law claim for wrongfully providing alcohol when the claim is brought by the person who is provided with the alcohol. The instruction should be given in conjunction with the appropriate definitions contained in UJI 13-1660 NMRA.

[Adopted by Supreme Court Order No. 15-8300-005, effective for all cases pending or filed on or after December 31, 2015.]