

13-1664. Common law liquor liability to a third party.

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;

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 a third party and not the person who was 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.]