



WHEN DOES INTOXICATION EQUATE TO RECKLESS CONDUCT FOR PUNITIVE DAMAGES?

Louisiana permits an injured party to recover punitive damages from an intoxicated motorist, when the injuries were caused by the motorist's "wanton and reckless disregard for the rights and safety of others." However, is there a level of intoxication at which a motorist's conduct will be presumed wanton and reckless, despite the existence of countervailing evidence? The answer appears to be yes, based on a decision rendered by the Louisiana Third Circuit Court of Appeal in *Guillory v. Saucier*, 2011 WL 6058050. In *Guillory*, plaintiff's vehicle was struck by a vehicle operated by an intoxicated motorist who was attempting to make a left turn. An Intoxilyzer test revealed a blood alcohol content of .171. Plaintiff sued to recover general and special damages, plus punitive damages under La. Civil Code Art. 2315.4. A jury found the motorist's intoxication was a cause of the plaintiff's injuries, but the motorist's conduct did not rise to the level of being wanton or reckless. The trial court disagreed, entered a judgment notwithstanding the verdict, and awarded \$100,000 in punitive damages. The Third Circuit affirmed, stating that considering the level of intoxication, a reasonable fact finder could not have reached any conclusion other than the motorist's behavior was wanton or reckless.

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