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Verdicts and Settlements: Company can collect \$1.8 million from former exec

By Andy Peters and Greg Land

More than two months after winning a \$2.8 million judgment against a Hapeville nightclub, the plaintiff's attorney says he has been unable to reach either the club's owner or his attorney.

"I've sent post-judgment notices of judgment to the CEO and any previous corporate officers," said Evan L. Kaine of Kaine & Jones. "I can't get any response."

The case began when an argument between a female nightclub bouncer and a club patron led to the man fleeing the club with stab wounds to the chest and shoulder. According to court filings and Kaine, 55-year-old Shon Nabers of Tyler, Ala., was in town for a family reunion on July 24, 2005, when he and a cousin visited B-52's, a Hapeville nightclub near Hartsfield-Jackson Atlanta International Airport, that was later re-named the Irish Bred Pub and moved to a nearby location.

"The facts are in dispute as to what led up to it," said Kaine. "But there was some sort of verbal altercation between my client and his server. The bouncer came over and got involved, and she claimed he pushed her; he says he didn't."

What happened next is not in dispute, according to court filings.

The bouncer, Della Warren, pulled out a pocket-knife and stabbed Nabers in the chest.

In a hand-written response filed early on in the case, Warren said Nabers repeatedly approached her, called her and the server "bitch" and was "in my face."

"Then he shoved me and hit me all in the left side of my face," she wrote. At that point, "the b/m [black male] was struck with my knife."

"They said they were the only two African Americans in an all-white bar," said Kaine of Nabers and his cousin. After the stabbing, "[Nabers] said he was chased out of the club by a bunch of people. He and his cousin drove back to their hotel, called an ambulance and the police."

"The police never pursued criminal charges," said Kaine. "[Warren] claimed self-defense, and they just didn't follow up on it."

Nabers' wounds did not appear serious initially, said Kaine, but complications arose once he arrived at Grady Memorial Hospital, where he was treated for a collapsed lung and other injuries.

"He had stab wounds and a scar, and they had to insert two chest tubes for the collapsed lung," said Kaine. "Now, every time he gets sick, he gets pneumonia, and those wounds still ooze pus. The doctor said it would be like that the rest of his life."

Nabers was out of work for four months, according to a May 11, 2006, complaint Kaine filed in Fulton County Superior Court naming Warren and B-52's corporate owner, Three Friends Inc., as defendants, and seeking damages for assault, battery, negligence and vicarious liability.

Warren eventually was dismissed from the suit at the plaintiff's request, said Kaine.

"She was an hourly employee without significant assets," said Kaine. "I was concerned that any apportionment was heavily weighted toward her, so I dismissed her."

Three Friends and its only corporate officer, Jiri Matousek, were represented by Atlanta sole practitioner R. Kipling Jones, who filed a notice of appearance and defense answer more than four months after the case was filed.

"They never responded to discovery," said Kaine, despite being ordered to do so by former Fulton County Superior Court Judge Thelma Wyatt Cummings Moore, who retired last year.

"We tried to mediate pre-trial," said Kaine, "and then they didn't get to the mediation until late, and the mediator called it off."

On May 11, Moore's successor, Judge Kimberly Esmond Adams, conducted a bench trial, which the defense did not attend. The next day she entered a judgment of \$2,772,532 in compensatory damages against Three Friends.

There has been no response from the defense, meaning the filing deadline for any appeal or post-trial motion has passed.

Jones, reached for comment last week, said he would prepare a statement, but the Daily Report has been unable to re-establish contact. Both his office and cell phone voice-mail inboxes were full, and he did not respond to e-mail queries.

Three Friends was administratively dissolved in 2007, when Matousek moved B-52's from its Norman Berry Drive location to nearby Virginia Avenue and changed its name to Irish Bred Pub.

A woman who answered the phone at the pub said Matousek was unavailable but that she would forward inquiries to him; he did not respond to a voice message left on his home phone or to another inquiry at the pub.

Kaine said he is "80 percent sure" he can recover the judgment, whether from Matousek and his new company or elsewhere.

"I've got a judgment against Three Friends," said Kaine. "In my opinion, they have a bad-faith claim against their insurance company's lawyer for not pursuing the case and against their private attorney for not filing a timely response."

The case is Nabers v. Three Friends, No. 2006CV116530.



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