In Texas, Guns and Alcohol Can Be OK – If People Aren't Drunk

- Is it OK to mix guns and alcohol? A Texas Court of Appeals seems to be saying, "It depends."

A post on the website of **Androvett Legal Media & Marketing** reports that the court ruled that when people are drinking, but not obviously intoxicated, it can't be assumed that a serious injury will happen just because there's a gun around. The ruling came in a case in which a woman sued a Houston area homeowner after she was accidentally shot in the ankle at a barbecue where people were drinking. Hours before she was wounded, the plaintiff and other guests shot soda cans with a pistol. The plaintiff testified that she did not feel safe.

The 14th Court of Appeals in Houston concluded that the homeowner couldn't be sued for premises liability and gross negligence just because there was a gun where beer and wine were served. The ruling isn't surprising, said **Ross Asher** of **Roberts Markel Weinberg Butler Hailey PC**, which has offices across Texas. The Houston-based trial lawyer is experienced in insurance and premises liability matters.

> *"The most basic aspect of negligence law is foreseeability, and whether a reasonable person in similar circumstances should have foreseen that such an injury would occur. Texas law recognizes the important distinction between merely drinking alcohol and drinking to the point of impaired judgment.*
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> *"For example, the law criminalizes driving while intoxicated, but not simply driving after drinking. Thus, the amount of alcohol consumed and the effect of the alcohol on a person are the deciding factors – not the mere fact that some*

alcohol was imbibed. In this case, there was apparently no evidence that anyone near the firearm showed any signs of excessive drinking and impaired judgment. Therefore, such an incident could not be reasonably foreseen by the homeowner.”

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