

## **Underage Social Hosts Can Be Held Liable To Third-Party Drunk Driving Victims.**

In the recently decided case of Estate of Brandon Tyler Narleski v. Nicholas Gomes (A-9/10-19) (083169)(September 17, 2020), the New Jersey Supreme Court held that an underage adult defendant may be civilly liable to a third-party drunk driving victim if the defendant facilitated the use of alcohol by making his home available as a venue for underage drinking, regardless of whether he is a leaseholder or titleholder of the property; if the guest causing the crash became visibly intoxicated in the defendant's home; and if it was reasonably foreseeable that the visibly intoxicated guest would leave the residence to operate a motor vehicle and cause injury to another. Finding that an underage adult, by law, may sue and be sued, may drive a motor vehicle, and has the same civil obligations as any other citizen, the court concluded that he too is bound by the social compact. A person's age does not make him immune from legal responsibility for the violation of an established duty that is intended to protect others from foreseeable harm. Slip Op. at 4.

In this wrongful death case, nineteen-year-old Mark Zwierzynski -- a third-party defendant -- permitted underage adult friends to bring into his home alcoholic beverages, which they consumed while his parents were not there. Based on the summary judgment record, two of Zwierzynski's friends, nineteen-year-old Brandon Tyler Narleski and twenty-year-old Nicholas Gomes, left the home severely intoxicated and got into Gomes's car. Gomes drove away and, shortly afterwards, lost control of the vehicle and crashed into a concrete road divider. Narleski was ejected from the vehicle and died at the scene. The trial court determined that Zwierzynski -- despite providing his home as a drinking venue and arguably facilitating the excessive use of alcohol -- owed no legal duty to Narleski because of Gomes's intoxication. He was, accordingly, dismissed from the case.

The Appellate Division affirmed the dismissal of the complaint against Zwierzynski. Estate of Narleski v. Gomes, 459 N.J. Super. 377, 399 (App. Div. 2019). Nevertheless, it declared that, going forward, an underage adult “shall owe a common law duty to injured parties to desist from facilitating the drinking of alcohol by underage adults in his place of residence, regardless of whether he owns, rents, or manages the premises.” *Id.* at 398. On granting the Petition for Certification, this state’s highest court determined that extending liability to underage adults was the natural expansion of the existing law on social host liability. As such, there was no need to apply the law prospectively only as the appellate panel opined but, rather, that law should apply to the case at bar. Finding material issues of disputed fact existed that could only be decided by a jury, summary judgment for defendant Zwierzynski was reversed and the case was remanded.