

CAPTION

Plaintiff N.N., a minor, through her guardian L.S., names being fictitious, residing in the Township of \_\_\_\_\_, Sussex County, New Jersey, by way of complaint against Defendants says:

**PARTIES**

1. Plaintiff N.N., a minor, through her guardian L.S., resides in the \_\_\_\_\_ of \_\_\_\_\_, Sussex County, New Jersey.

2. Defendant \_\_\_\_\_ resides at \_\_\_\_\_

3. Defendant \_\_\_\_\_ resides at \_\_\_\_\_

4. Defendant \_\_\_\_\_ resides at \_\_\_\_\_

5. Defendant \_\_\_\_\_ resides at \_\_\_\_\_

6. Defendant \_\_\_\_\_ resides at \_\_\_\_\_

7. Defendant \_\_\_\_\_ resides at \_\_\_\_\_

8. Defendant \_\_\_\_\_ resides at \_\_\_\_\_.

8. Defendant \_\_\_\_\_ resides at \_\_\_\_\_.

**FACTS**

9. On or about August 27, 1996 Plaintiff, age thirteen (13), was lawfully on the premises located at \_\_\_\_\_, Sussex County, New Jersey, which was owned by Defendants \_\_\_\_\_ and \_\_\_\_\_ and occupied by them with their son, Defendant \_\_\_\_\_ age nineteen (19).

10. On or about said date Defendant \_\_\_\_\_, age eighteen (18), was at said premises with the express or implied permission of defendants \_\_\_\_\_ and \_\_\_\_\_.

11. On or about said date and at the address of Defendants as aforesaid, Plaintiff, a minor, was served alcoholic beverages by Defendants \_\_\_\_\_ and \_\_\_\_\_.

12. As a result of being served alcoholic beverages by said Defendants, Plaintiff became visibly intoxicated, and suffering the effects of such intoxication Plaintiff was placed in a vulnerable and helpless condition.

13. On or about said date, Defendants \_\_\_\_\_ and \_\_\_\_\_ caused Plaintiff to leave the home of Defendant \_\_\_\_\_ in a state of intoxication and they took her to the premises located at \_\_\_\_\_ Drive, Sussex County, New Jersey, which was owned by Defendants \_\_\_\_\_ and \_\_\_\_\_, who occupied same with their son \_\_\_\_\_.

14. Defendants \_\_\_\_\_ knew or should have known that Plaintiff was a minor and that she was visibly intoxicated and visibly sick while she was on their premises.

15. On or about said date at the premises located at \_\_\_\_\_, Sussex County, New Jersey, Defendant \_\_\_\_\_ did sexually assault Plaintiff, a minor.

### **COUNT ONE**

#### **Assault and Battery**

**by Defendant \_\_\_\_\_**

16. Plaintiff repeats and makes a part hereof the allegations contained in each and every prior paragraph of this Complaint as if same were more fully set forth at length herein.

17. On or about August 27, 1996 at the time and place as aforesaid stated, Defendant \_\_\_\_\_ did commit upon Plaintiff an assault and battery through the intentional and unpermitted touching of Plaintiff as heretofore described.

18. As a proximate consequence of the conduct by Defendant \_\_\_\_\_, Plaintiff has incurred compensatory damages, including but not limited to physical and mental pain and suffering, medical and psychological expenses and diminished enjoyment of life and will continue to suffer such compensatory damages in the future.

19. The conduct of Defendant \_\_\_\_\_ was willful and wanton and Plaintiff is entitled to an award of punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendant \_\_\_\_\_ for compensatory and punitive damages, together with reasonable attorney's fees, costs of suit and such further relief as the Court may deem equitable and just.

## **COUNT TWO**

### **Negligence**

#### **by Defendant**

20. Plaintiff repeats and makes a part hereof the allegations contained in each and every prior paragraph of this Complaint as if same were more fully set forth at length herein.

21. Defendant \_\_\_\_\_ had a duty to exercise the foresight, prudence and caution that a reasonably prudent person would exercise while in the company of a minor female.

22. Said Defendant breached the duty of care of a reasonable person in that he engaged in conduct, including but not limited to the following:

a. He failed to recognize, exercise due diligence, or take the appropriate steps that a reasonable and prudent person would take in order to ascertain the true and correct age of Plaintiff;

b. He served alcohol to Plaintiff, a thirteen year old minor;

c. He engaged in sexual relations with Plaintiff, a thirteen year old minor;

d. He failed to recognize the consequences of his actions and the effects upon the physical and psychological wellbeing of Plaintiff.

e. He was otherwise negligent in his actions and conduct towards Plaintiff.

23. As a proximate consequence of the conduct by Defendant \_\_\_\_\_, Plaintiff has incurred compensatory damages, including but not limited to physical and mental pain and suffering, medical and psychological expenses and diminished enjoyment of life and will continue to suffer such compensatory damages in the future.

WHEREFORE, Plaintiff demands judgment against Defendant \_\_\_\_\_ for compensatory damages, together with reasonable attorney's fees, costs of suit and such further relief as the Court may deem equitable and just.

## COUNT THREE

### Negligence

#### by Defendant

24. Plaintiff repeats and makes a part hereof the allegations contained in each and every prior paragraph of this Complaint as if same were more fully set forth at length herein.

25. On or about August 27, 1996 L.S., in attempting to locate her daughter, Plaintiff N.N., made inquiry of Defendant \_\_\_\_\_ as to the whereabouts of her daughter.

26. Defendant \_\_\_\_\_ had a duty to exercise the foresight, prudence and caution that a reasonably prudent person would exercise while in the company of a minor female and while knowing that said minor female was in an intoxicated condition and engaging in sexual relations with an adult male.

27. Said Defendant breached the duty of care of a reasonable person in that he engaged in conduct, including but not limited to the following:

a. He failed to recognize, exercise due diligence, or take the appropriate steps that a reasonable and prudent person would take in order to ascertain the true and correct age of Plaintiff;

b. He served alcohol to Plaintiff, a thirteen year old minor;

c. He concealed the identity of Plaintiff so as to hinder Plaintiff's mother, L. S., in her search for Plaintiff on the evening of August 27, 1996;

d. He aided and abetted Defendant \_\_\_\_\_ assault and battery on Plaintiff;

e. He was otherwise negligent in his actions and conduct towards Plaintiff.

28. As a proximate consequence of the conduct by Defendant \_\_\_\_\_, Plaintiff has incurred compensatory damages, including but not limited to physical and mental pain and suffering, medical and psychological expenses and diminished enjoyment of life and will continue to suffer such compensatory damages in the future.

WHEREFORE, Plaintiff demands judgment against Defendant \_\_\_\_\_ for compensatory damages, together with reasonable attorney's fees, costs of suit and such further relief as the Court may deem equitable and just.

## COUNT FOUR

### **Negligence**

#### **by Defendants and**

29. Plaintiff repeats and make a part hereof the allegations contained in each and every prior paragraph of this Complaint as if same were more fully set forth at length herein.

30. Plaintiff was a social guest while at the home of Defendants and located at Sussex County, New Jersey.

31. Defendants owed a duty of care to a social guest in their home to exercise the foresight, prudence and caution that a reasonably prudent person would exercise when a thirteen year old female minor is in the presence of adult males.

32. Defendants breached the duty of care of a reasonable prudent person in that each of said Defendants engaged in conduct, including but not limited to the following:

a. They failed to supervise the activities of young adult males and a thirteen year old female minor in their home;

b. They failed to control the availability of alcoholic beverages to minors in their home;

c. They failed to recognize, exercise due diligence, or take the appropriate steps that a reasonable and prudent person would take in order to ascertain the true and correct age of Plaintiff.

33. As a proximate consequence of the conduct by Defendants and , Plaintiff has incurred compensatory damages, including but not limited to physical and mental pain and suffering, medical and psychological expenses and diminished enjoyment of life and will continue to suffer such compensatory damages in the future.

WHEREFORE, Plaintiff demands judgment against Defendants and jointly, severally, or in the alternative, for compensatory and punitive damages, together with reasonable attorney's fees, costs of suit and such further relief as the Court may deem equitable and just.



**CERTIFICATION UNDER R. 4:5-1**

I hereby certify pursuant to R. 4:5-1 that this matter is not presently the subject of any other action pending in any court or of a pending arbitration proceeding. Furthermore, no such action or arbitration proceeding is being contemplated at this time. Also, to the best of my knowledge, there are no other parties that should be joined in this action at this time.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to the provisions of R. 4:25-4, Richard D. Pompelio, Esq. is hereby designated as trial counsel on behalf of the plaintiff.

POMPELIO & POMPELIO, ESQS.

Attorneys for Plaintiff

By \_\_\_\_\_

Richard D. Pompelio

Dated: May 1, 1998