

NEW MEXICO INJURY ATTORNEY BLOG

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Service of Alcohol to Minors Leads to Tragic DWI/DUI Auto Accident

Auto accidents are among the leading causes of death of teenagers and young adults (ages 15-24) in New Mexico. Youth, drinking and driving is a lethal mix with often lethal consequences. The DWI/DUI laws and underage drinking laws in New Mexico are very strict to avoid the tragedy of youthful DWI/DUI accidents.

There are strict laws against underage drinking including felony charges for providing alcohol to underage drinkers. These penalties can be particularly harsh for service of alcohol to minors. However, despite these laws, minors often manage to obtain alcohol as a result of negligent or reckless bartenders, hosts, clerks or cashiers. Unfortunately, this negligence or recklessness can result in catastrophic injury and sometimes wrongful death.

Fortunately, New Mexico law holds these individuals and entities accountable for the damages caused by their negligence under dram shop laws, social hosts laws, and criminal laws designed to protect individuals from such behavior.

A recent case in California illustrates the law, the possible harm, and the potential recovery for injuries arising out of dram shop or negligent social host situations. The case of *Apodaca v. Bradley* involved two 20 year olds, Joshua Apodaca and Sean Patrick Bradley, who were served alcohol at a Sonoma County winery during a wedding reception, and then again at convenience store following the reception. The two were served alcohol at the wedding reception despite failing to present identification. Even more remarkably, they were later sold alcohol by a convenience store again with no identification which they then consumed in the store's parking lot.

Bradley who was driving crashed his car into a rock wall as the two travelled home. Apodaca suffered closed head traumatic brain injuries. Apodaca's brain injuries led to severe and permanent cognitive and motor deficits.

Unlike New Mexico, apparently California does not have formal dram shop laws. Instead, the lawsuit was brought under specially enacted laws to address teenage DWI/DUI. The result was a \$3.1 million settlement. The winery

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contributed policy limits of \$3 million under its insurance policy. The parents of Bradley contributed their policy limits of \$100,000. Bradley himself contributed \$5000.

The \$3.1 million can never fully compensate Apodaca for all of the damages associated with his severe traumatic brain injury. Apodaca will likely suffer a lifetime of pain and suffering, loss of enjoyment of life, and permanent mental and physical limitations. The loss of income and earnings over his lifetime associated with his injuries are hard to calculate due to his youth. Rest assured, however, even a moderate income over his working life would approach the value of the settlement.

Instead, the bulk of the settlement proceeds will go toward a lifetime of medical care and expense for Apodaca. There will likely be little left to address his remaining damages. Unfortunately, this is often the reality of auto accidents, where there is inadequate insurance to compensate injured persons. In New Mexico, a \$3.1 million settlement in an auto accident is extremely rare due to the high level of uninsured/underinsured motorists in the State. Though the settlement cannot possibly compensate Apodaca for his injuries, it is far better than the outcome in most DWI/DUI accidents where there simply is no insurance or financially responsible party to compensate the accident victim other than his or her own uninsured/underinsured motorist coverage.

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