

# College Parties: What Part Of The "Animal House" Environment May Have Legal Liability For An Intoxicated Student?

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When picturing a college party, your mind may go straight to National Lampoon's Animal House with underage intoxication and rowdy behavior. While fictional movies about college drinking offer comedic entertainment, when similar antics happen in the real-world, and an intoxicated party-goer is severely injured, who might be liable for the injuries? The Appellate Division addressed this issue in Franco v. Fairleigh Dickenson University, A-3055-18 (March 25, 2021).

## What Happened at the On-Campus Party that Led to a Student's Brain Injury?

In September 2014, Kenneth Franco, a 20-year-old Fairleigh Dickenson University student, went to his friends' on-campus suite, where he became heavily intoxicated and fell asleep on the couch. Mr. Franco brought some alcohol to the party, however, the other guests and the hosts also provided a mix of alcohol to all those who attended. Mr. Franco also brought an overnight bag, as he had intended to stay the night, and head to work in the morning. Mr. Franco awoke several hours later, and left the suite to drive home; however, while en-route, Mr. Franco struck an unoccupied parked vehicle and flipped over causing serious and permanent brain damage. At the hospital, Mr. Franco had a blood alcohol content of 0.164%. It goes without saying that Mr. Franco bears a share of responsibility for his own accident, but as this matter addressed, who else may have contributed to the happening of this accident? The student brought suit against numerous defendants, and after settlement with some defendants, the university, the suitemates, three guests and four RA (resident assistants) were dismissed from the case by the trial court for not having any liability.

On appeal, New Jersey Appellate Division analyzed the duty as to each group.

## Were the Suitemates Liable?

As discussed in more depth in a previous blog ([Teenage Wasteland: Who Is Responsible For The Injuries Caused By An Intoxicated Underage Individual?](#)), the suitemates would only be liable if they knowingly allowed Mr. Franco to consume alcohol on their premises, with the knowledge that he was going to operate a motor vehicle thereafter, which then resulted in causing an injury to a third party (someone other than Mr. Franco). Under these legal criteria, the suitemates could not be held liable for this accident as they believed he was spending the night and thus had no knowledge that he was going to operate a motor vehicle. The facts also did not meet the standard of Mr. Franco injuring a third party, as the only person injured in this matter was Mr. Franco, himself.

## Were the Other Guests Liable?

While the social guests may have brought some of the alcohol that Mr. Franco consumed, they owed him no duty to monitor or control his alcohol consumption, and had no knowledge that he was planning on operating a motor vehicle while intoxicated. Without any special relationship where the guests were responsible for Mr. Franco, and especially without any knowledge that he was planning on driving drunk, the other guests were not liable for Mr. Franco's injuries.

## Was Fairleigh Dickinson University Liable?

The on-campus party took place in an FDU suite, which was considered a "wet" dorm (alcohol not prohibited to anyone over 21 years old). FDU, a nonprofit entity organized to promote higher education, is immune from any lawsuits under the "Charitable Immunity Act" because it (1) was formed for nonprofit purposes; (2) is organized exclusively for educational purposes; and (3) was promoting such objectives and purposes at the time of the injury to Mr. Franco, who was then a beneficiary of the charitable works. It may be difficult to wrap your head around how a night of partying can be qualified as "promoting educational purposes," however the New Jersey Supreme Court has previously determined that the term "educational" should be interpreted broadly and includes social events amongst students, even if it was in violation of school policy prohibiting underage drinking in a dorm. Therefore, FDU was immune from liability from any potential wrongdoing, barring any showing of

“gross negligence,” which could not be shown here.

## Were the Resident Assistants Liable?

During the course of the evening, four Resident Assistants (RAs) were present for the party. The RAs had been trained on FDU's policies and procedures for encountering underage drinking. The on-duty RA for the dormitory stopped by, but did not follow FDU policy regarding parties. Another on-duty RA for a different dormitory attended the party, and observed Mr. Franco consuming alcohol, but he too did not follow FDU policy. In fact, when Mr. Franco passed out, the second RA partook in drawing on Mr. Franco. In addition, two off-duty RAs attended the party, and despite being required to comply with FDU policy and procedures, they did not report suspected underage drinking or call for appropriate medical attention.

While the RAs are also protected under the Charitable Immunity Act, they could be liable if their actions could be considered “gross negligence” or if they were willfully or wantonly indifferent by failing to enforce the university policy regarding drinking. Therefore, would be up to a jury to determine whether the RAs' actions, or lack thereof, qualify as “gross negligence,” and were a contributing cause of Mr. Franco's injuries.

## Conclusion

The Court dismissed the claims against the Suitemates who hosted the party, the social guests, and FDU, but not against the RAs. This ruling does not mean that the RAs are automatically liable for Mr. Franco's injuries; it will be up to a jury to determine if the RAs' behaviors were grossly negligent, and to what percent they were negligent compared to Mr. Franco's own fault. While people are responsible for their own actions, that does not relieve from liability others who have been tasked with the responsibility to prevent these very dangers from occurring. The case illustrates that an intoxicated driver who is injured in a motor vehicle accident may share liability with a number of other individuals, companies or organizations that played a role, in some way, in contributing to the cause of the accident.