**13-1666. Liability for social hosts in a licensed establishment.**

To establish the claim against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of plaintiff*) has the burden of proving the following elements:

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*) provided alcoholic beverages to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of guest or plaintiff*);

2. At the time \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*) provided the alcoholic beverages to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of guest or plaintiff*), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of guest or plaintiff*) was intoxicated;

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*) provided the alcoholic beverages recklessly; and

4. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of guest or plaintiff*)’s intoxication was a cause of \_\_\_\_\_\_\_\_\_\_\_\_ (*name of guest or plaintiff*)’s [injuries and] damages.

[To prove that \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*) provided alcoholic beverages to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(*name of guest or plaintiff*), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of plaintiff*) must prove that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*) had some responsibility for or control over the service of alcohol to \_\_\_\_\_\_\_\_\_\_\_\_ (*name of guest or plaintiff*). You must consider all of the circumstances. For example, you may consider whether \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*) set up a gathering for a specific purpose or benefit to \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*), such as to celebrate an event, or to promote business goodwill; whether \_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*) arranged in advance for the provision of food and beverages or; whether \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*) invited \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of guest or plaintiff) to attend as [his] [her] [its] guest. The presence or absence of a particular circumstance does not necessarily resolve whether \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of defendant*) had some responsibility for or control over the provision of alcohol to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of guest of plaintiff*).]

USE NOTES

This instruction is based on NMSA 1978, Section 41-11-1(E). It should be given when the plaintiff claims injury resulting from the provision of alcohol in a social setting inside a licensed establishment. This instruction is to be used either when the claim is brought by a third party or by the person who was provided with the alcohol. If the provision of the alcoholic beverages takes place outside a licensed establishment, UJI 13-1665 NMRA should be used instead of this instruction. The instruction should be given with the appropriate definitions from UJI 13-1660 NMRA. The bracketed paragraph should only be used when there is a factual dispute regarding whether the defendant provided alcohol to the person whose intoxication is at issue and may be modified based on the facts of the case.

[Adopted by Supreme Court Order No. 15-8300-005, effective for all cases pending or filed on or after December 31, 2015.]