STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Court Docket No. And-25-351

ZACHARY WILSON,
Plaintiff/Appellant

v.

ELIZABETH GURNEY, et al.
Defendants/Appellees

ON APPEAL FROM THE SUPERIOR COURT
ANDROSCOGGIN COUNTY

REPLY BRIEF OF PLAINTIFF/APPELLANT

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

ARGUMENT

Plaintiff/Appellant respectfully presents this reply brief to address only new arguments made in the brief filed by Defendants/Appellees. Plaintiff does not waive any of the arguments made in his main brief by failing to repeat them here.

Appellees contend that recognizing a duty owed by a host of a large, out-of-control Party to the guests she invites would require this Court to rewrite Maine law on special relationships, in violation of *stare decisis*. That mischaracterizes both Wilsons argument and the doctrine itself for the reasons set forth below.

I. Stare Decisis Does Not Bar the Court From Applying Existing Duty Principles to New and Unprecedented Factual Circumstances Where Public Policy and Social Conditions Warrant Clarification.

Stare decisis prevents courts from overturning settled rules of law without compelling justification - it does not prohibit the Court from applying existing framework to modern, different facts that prior cases have not addressed. *See Myrick v. James*, 444 A.2d 987 (Me. 1982); *Bourgeois v. Great Northern Nekoosa Corp.,* 1999 ME 10, 722 A.2d; *MacDonald v. MacDonald*, Me., 412 A.2d 71 (1980); *Moulton v. Moulton*, 309 A.2d 224 (Me. 1973); The Law Court has expressly held:

> "We have repeatedly held that the doctrine of stare decisis is not an inflexible rule requiring this court to blindly follow precedents and adhere to prior decisions and that when it appears that public policy and social needs require a departure from prior decisions, it is our duty as a court of last resort to overrule those decisions and establish a rule consonant with our present day concepts of right and justice." *Myrick*, 444 A.2d 987, 997-998 (Me. 1982).

Here, this principle defeats Appellees' suggestion that the Court must keep the special-relationship doctrine consistent with past case law. Far from prohibiting doctrinal development, *Myrick* affirms that this Court's common-law authority exists precisely so it may adapt rules of duty to contemporary social realities. *Id.*

II. No Maine Precedent Cited by Appellees Forecloses the "Party Host and Party Guest" Duty Wilson Seeks to Recognize, so no Existing Law will be Overruled.

Appellees insist that Wilson seeks to "rewrite" the law on special-relationship law, but do not identify any past case where the Law Court has ever addressed or rejected a duty owed by the underage host of a 100-person, out-of-control party involving drugs, alcohol, minors, and uninvited, dangerous guests. Their stare decisis argument rests on the false premise that prior cases have already rejected such a duty, but it follows that they have not.

In Maine, special-relationship jurisprudence is narrow and fact-specific, generally involving institutional or commercial settings such as restaurants, stores, innkeepers, theaters, and even bar patrons. S*ee Belyea v. Shiretown Motor Inn*, 2010 ME 75, 2 A.3d 276; *Kaechele v. Kenyon Oil Co.,* 2000 ME 39, ¶ 8, 747 A.2d 167; *Brewer v. Roosevelt Motor Lodge*, 295 A.2d 647, 651 (Me. 1972); *Hawkins v. Maine & New Hampshire Theaters Co*., 132 Me. 1, 164 A. 628 (1933). Those cases did not contemplate the circumstances at hand here: a party host who, through intentional conduct and failed control, created a dangerous situation at her home where she over-

invited others in to party with drugs and alcohol—an undertaking that directly exposes those guests to harm. A. at 72, ¶¶ 2-3; 73, ¶¶ 6-11; 74, ¶¶ 12-14, 16-19; 75, ¶¶ 20-24, 27; 76, ¶¶ 28-29. Applying existing duty principles, such as foreseeability, creation of risk, and the host's control over the premises, as Appellant already has in his initial brief (Appellant's Brief at A(ii)), to these facts, does not disturb any "settled point of law," but addresses an issue the Court has not yet faced during a time when gun violence and underage drinking and drugs are a significant and growing problem in society.

III. Recognized Principles of Duty, Public Policy and Contemporary Social Realities Strongly Support Recognition of a Duty in this Context.

As discussed in Appellants' initial brief and above, in the context of premises liability, Maine's duty analysis turns on factors such as foreseeability, risk creation, and the defendant's ability to prevent harm. Here, Appellant Elizabeth Gurney:

- Intentionally created a setting, the Party, where more than 100 mostly-underage individuals gathered to drink alcohol and do drugs;
- Knew drugs, alcohol, and volatility were present;
- Acknowledged she could not control the Party and environment;
- Requested Wilson's assistance in removing the dangerous Third Parties from the Party; and
- Benefitted from Wilson's undertaking, which directly exposed him to the assailant. A. at 72, ¶¶ 2-3; 73, ¶¶ 5-11; 74, ¶¶ 12-18; 75, ¶¶ 23-27, 76, ¶¶ 28-29.

These facts fit within Maine's existing framework recognizing a duty where a defendant creates or amplifies risk, is in control of the circumstances, or places another in a dangerous situation. *See Brown v. Delta Tau Delta*, 2015 ME 75, ¶ 14,

118 A.3d 789; *Gniadek v. Camp Sunshine at Sebago Lake, Inc.,* 2011 ME 11, ¶ 17, 11 A.3d 308; *Reid v. Town of Mt. Vernon*, 2007 ME 125, ¶ 17, 932 A.2d 539 None of these cases foreclose recognizing a duty under these circumstances and doing so does not "rewrite" special-relationship law. It follows from the Court's consistent approach: where one party voluntarily assumes control over a setting that exposes others to foreseeable risks, a duty may arise.

Even assuming prior cases could be read as implicitly limiting special-relationship categories, precedence makes clear that this Court should depart from rigid formulations when "public policy and social needs" require. They do here. The dangers posed by large, unsupervised underage gatherings are well recognized—alcohol, drugs, impaired judgment, overcrowding, and escalating conflict. Elizabeth and Holly Gurney's creation of this environment, combined with Elizabeth's request to Wilson for his help, made the harm both *foreseeable* and *preventable*. *See Gniadek,* 2011 ME 11, ¶ 29; 11 A.3d 30; *Quinn v. Moore*, 292 A.2d 846, 850. To hold that a host owes no duty under these circumstances would be contrary to modern social reality, public safety concerns, and the purposes of Maine tort law.

IV. Appellees' argument misapplies stare decisis because the doctrine is irrelevant where no prior case answered the question.

Appellees assert that Wilson "does not address" stare decisis in their brief, but, on the contrary, the stare decisis doctrine does not apply in the manner suggested

by Appellees. As discussed above, because no precedent resolves the specific "party host and party guest" relationship and duty issue presented by Appellant, Wilson is not asking the Court to overturn any existing case law. Instead, he seeks only the application of established premises liability principles to new fact patterns in societal circumstances involving dangerous, underaged, and out of control social gatherings that have become more common in the present day and create a public policy concern for safety. Accordingly, Appellees' argument that the Court must leave this type of relationship unaddressed reflects a misunderstanding of stare decisis and ignores principles which Maine law readily applies and accepts.

CONCLUSION

Accordingly, for the reasons set forth in Plaintiff's brief and this reply brief, Plaintiff/Appellant respectfully requests that the order of the Superior Court granting summary judgment to Defendants/Appellees be vacated.

Dated this 21st day of November, 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Carly R. Cosgrove, Esq., hereby certify that I made service of the foregoing Brief of Appellant Zachary Wilson upon counsel of record as follows:

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ZACHARY WILSON, Plaintiff/Appellant VS. ELIZABETH GURNEY, et al., Defendants/Appellees	CERTIFICATE OF SIGNATURE AND COMPLIANCE

I am filing the electronic copy of a brief with this certificate. I will file the paper copies as required by M.R. App. P. 7(A)(i). I certify that I have prepared the reply brief and that the reply brief and associated documents are filed in good faith, conform to the page or word limits in the M.R. App. P. 7A(f), and conform to the form and formatting requirements of M.R. App. P. 7A(g). For this Certification, I relied on the word count function of the word-processing software used to prepare this brief (Microsoft Word 365), which has counted 1236 words in the reply brief.

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