

Are parents liable for their adult children's social host mistakes?

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In the 2006 case *Childs v. Desormeaux*, the Supreme Court of Canada provided initial clarification on the law of social host liability, finding that hosting a party at which alcohol is served does not, without more, establish the degree of proximity required to give rise to a duty of care. However, *Childs v. Desormeaux* left open the possibility of a positive duty of care in a number of scenarios, including cases of “paternalistic relationships of supervision and control, such as those of parent-child or teacher-student” (at para 36). It is a live question of concern to insurers and hosts alike to determine how far such a duty might extend. In this article, we will briefly discuss whether parents may have a duty to supervise adult children who host a party at the parents' home.

Generally, parents are not vicariously liable for the torts of their children merely by virtue of their status as parents. Rather, parents will be liable where they are found to have “directed, sanctioned, ratified, consented to, or participated in the torts of a child, since by doing so the parent becomes a party” (*Segstro (Guardian ad Litem of) v. McLean (Guardian ad Litem of)*, 1990 CarswellBC 1809 (BCSC) at para 44).

Parents have a duty of supervision and control that varies with the age of the child. The degree of supervision and control required of a young child may be very different from that required of a child approaching the age of majority – the duty to supervise decreases with the child's age (*Lelarge v. Blakney*, 1978 CarswellNB 85 (NBCA) at para 12). The duty of supervision does not necessarily relate to the child reaching the age of majority. For example, in *G. (J.) (Guardian & Trustee of) v. Strathcona (County)*, 2004 ABQB 378, at paras 168-169, the Court found that it would be unreasonable to impose a duty on parents to personally supervise sixteen-year-olds in relation to the operation of a snowmobile, unless there was a concern about their ability to operate the machine safely. Such a finding indicates that a parent's duty to supervise an adult child would be minimal.

This appears to be borne out in the case law dealing with social host scenarios, where claims against parents have been summarily dismissed on the basis that the social scenario leading to injury was hosted by an adult child.

For example, in *Kim v. Thammavong*, [2007] OJ No 4769, 2007 CarswellOnt 7848, a 21-year-old held a party at the family home while her parents were away on vacation. At the party, a fight broke out, and an injured party sued the 21-year-old and her parents for damages on the basis of negligence and occupiers' liability. In granting the motion of the parents for summary dismissal, the Court found that a duty of care did not arise on the facts, and the daughter's status as an adult was treated as determinative of the issue: “...they went on vacation and they did not control in their home their adult daughter, who was known to drink alcohol. In my opinion, these circumstances do not rise to establish a relationship that *prima facie* entails a duty of care” (at para 28).

Similarly, in *Ferrier v. Hubbert*, 2015 ONSC 5286, 2015 CarswellOnt 14960, a party was held at the defendant parents' cabin by their 23-year-old son. At the party, one guest, the primary defendant, drove away from the cabin with the plaintiff as his passenger and was involved in a single-vehicle accident, not on the parents' property, but on a right-of-way that they had permission to use. The parents brought a motion for summary judgment dismissing the claim against them, and the Court granted their motion. The Court commented that, even if it had found that the

parents had delegated hosting or safety responsibilities to their son, the parents “had no duty to supervise their adult son and were free to respect his autonomy, and cannot be held liable for allowing him or his girlfriend to host a party on their property” (at para 62).

As such, while parents ought to remain vigilant in social host situations involving minor children, social host liability will very likely not extend to situations in which adult children host parties on their parents’ property.

For more information, please contact Simon Elzen-Hoskyn or another member of the Insurance group.

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