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## CASE SUMMARY: NEGLIGENT UNLOADING OF A MOTOR VEHICLE IS COVERED BY AN AUTO INSURANCE POLICY AS IT RELATES TO THE INSURED'S USE AND OPERATION OF THE VEHICLE

Negligent unloading of a motor vehicle is covered by an auto insurance policy as it relates to the insured's use and operation of the vehicle.

**Automobile insurance; Ownership of vehicle; Duty to defend; Interpretation of policy; Summary judgments**

*Hoang (Litigation guardian of) v. Personal Insurance Co. of Canada*, [2017] O.J. No. 3061, 2017 ONSC 3649, Ontario Superior Court of Justice, June 13, 2017, E.M. Morgan J.

The infant plaintiff obtained judgment at trial against his father in the amount of \$854,228 in damages and \$899,750 in costs. The jury found the father was negligent in unsafely unloading his son at a busy intersection and that he did not ensure proper supervision of his son when he entrusted the son's safety to a 12 year old child. The father's motor vehicle insurer defended him at trial but denied it had a duty to indemnify on the basis that it was unclear whether the father's negligence arose directly or indirectly from the use or operation of a motor vehicle.

The plaintiff brought a summary judgment application seeking an Order requiring the father's insurer to pay the jury award. The court found that it was not the father's poor parenting that caused the child's injuries but rather his poor choice of unloading area which created the risk that caused the son's injuries. The insurer was obligated to pay the damages and costs awards.

This case was digested by [Laura E. Miller](mailto:lmiller@harpergrey.com) and edited by [Steven W. Abramson](mailto:sabramson@harpergrey.com) of Harper Grey LLP. If you would like to discuss this case further, please feel free to contact them directly at [lmiller@harpergrey.com](mailto:lmiller@harpergrey.com) or [sabramson@harpergrey.com](mailto:sabramson@harpergrey.com) or review their biographies at <http://www.harpergrey.com>.