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## CASE SUMMARY: NO COVERAGE UNDER A HOMEOWNER'S POLICY FOR THE INSURED'S ADULT SON

The insurer was not obliged to defend and indemnify the adult child of the named insured because the adult child was not a member of the insured's household.

### **Insurance law – Homeowner's insurance – Duty to defend – Members of a household – Interpretation of policy – Practice – Appeal**

*Ferro v. Weiner Estate*, [2019] O.J. No. 386, 2019 ONCA 55, Ontario Court of Appeal, January 28, 2019, C.W. Hourigan, B. Miller and G.T. Trotter JJ.A.

The insurer appealed a summary trial decision where the court held that the insurer was obliged to defend and indemnify the insured's adult child for settlement monies paid in a wrongful death case at a family cottage.

The insured was the sole owner of the family cottage and sole named insured under the cottage homeowner policy. At the time of the death, the insured resided full-time in a nursing home. Her adult children used the cottage as a vacation destination with their families. The policy provided coverage to the insured's relatives "while living in the same household" as the named insured. One of the insured's adult children, along with his wife and daughter, were named as defendants in a wrongful death action. The adult child's insurer settled the wrongful death action and brought a summary judgment motion seeking a declaration that the insured's cottage policy had to defend and indemnify the son's family. The motion judge held that the insurer was obliged to defend and indemnify the adult child and his family in the wrongful death action. The insurer appealed. The sole issue on appeal was whether the adult child, his wife and daughter were insureds under the policy.

The focus of the appeal concerned the meaning of the term "household." This phrase had a long and stable meaning which could be formulated as connoting a family-like group of people living together with an element of intimacy or community in the relationship.

The Court concluded that the motion judge erred by focusing on the adult child's relationship with the house, rather than his relationship with the insured. The adult child lived with his own family and organized his life around that family unit. He had a separate identity of life from his mother. The same applied to the wife and daughter. The Court noted that while it was not impossible to conceive of a person being a member of two households (such as a child of divorced parents), this was clearly not such a case. The Court held that the adult son, wife and daughter were not part of the insured's household and the insurer's appeal was allowed.

This case was digested by [Michael J. Robinson](#), and first published in the LexisNexis® Harper Grey Insurance Law Netletter and the Harper Grey Insurance Law Newsletter. If you would like to discuss this case further, please contact Michael J. Robinson at [mrobinson@harpergrey.com](mailto:mrobinson@harpergrey.com).