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May 4-5, 2017
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 **March 2017** 

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PRESIDENT'S MESSAGE

MARCH 2017



Welcome,

March is here and spring is near. Spring will be here on March 20. Hopefully since we have already seen much of the snow melt earlier this year we will not see a lot of water claims when the final melt happens.

On February 23, 2017, Ashley Leon spoke to us about the License Appeal Tribunal (LAT) and how the decisions are coming from the LAT. Approximately 50 people were in attendance at this event and it was a great meal.

We are looking for volunteers for the executive board for next year, we have the following positions available: Social Director, Director, Secretary, Web Director, and Bulletin Director. Please contact Jaime.Renner@economical.com or myself if you wish to fill one of these positions.

We are still busy planning the year's biggest event, Maytoberfest May 4 & 5, 2017, and have many exciting things in store for the attendees. You can register TODAY at <http://www.kw-oiaa.ca/2017Provincial> for general attendance tickets and trade show booths. Maytoberfest is being held at the Inn of Waterloo which is booking up fast. If you would like a room on site, please register and book your room. If the Inn of Waterloo is booked you can book a room at the Delta Waterloo. Transportation will be provided to and from the hotel for you.

Sponsorship is the only way we will be able to pull off an amazing conference for all attendees, if you or your firm are interested in sponsoring this event please contact us at sponsorship@oiaaprovincial.com for more information.

On March 31, 2017, we are hosting the Tri Association Bonspiel with the IBAWR and the IIC. Please register your teams and come out for a great day on the ice. Draws happen in the morning and the afternoon. Registration forms are in the bulletin, if you are a member of the IIC you can purchase them here as well <http://www.insuranceinstitute.ca/en/institutes-and-chapters/Ontario/Conestoga/Events.aspx>.

Hope everyone has a great month and start of spring. We will see you out at the next event on March 30, 2017 as we have Andrew Mercer and Daniel Strigberger speak to us about coverages.

Jennifer Brown
President of K-W OIAA

A handwritten signature in black ink that reads 'JBrown'.

K-W OIAA EXECUTIVE COUNCIL 2016-2017

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**If you have any questions, concerns or comments, please do not
hesitate to contact any of the above committee members.**

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EVENTS SCHEDULE 2016-2017

February 23, 2017- LAT Attack - Ashleigh Leon & Leeann Darke

March 30, 2017- Liability Topic- Carrie Keogh & Dan Strigberger

March 31, 2017- Tri- Council Curling Bonspiel: Westmount Golf and Country Club

April 27, 2017- Election Night- Jennifer Mohr & Jaime Renner

May 4&5, 2017- OIAA Provincial Conference – The Inn of Waterloo

June 22, 2017- John McHugh Memorial Golf Tournament: Jennifer Brown & Charlene Ferris: Ariss Valley Golf and Country Club

All events will be held at Golf's Steak House and Seafood unless otherwise noted.



SOCIAL CHIT CHAT

March 2017



If you haven't already heard, this year we are hosting the Provincial Conference from May 4-5 at the Inn of Waterloo.



We have lined up some very interesting and topical discussions dealing with the sharing economy, the LAT, lessons learned from the Fort McMurray wildfire, a VP claims panel covering a wide variety of topics and much more. Please visit www.oiaaprovincial.com to register.

As always, we look forward to seeing you on March 30th for our next OIAA dinner. If you have comments, suggestions or improvements as to how we can improve the vendor experience please feel free to email me or Ashleigh.

Your 2016-2017 Social Director
Monika Bolejszo

Articles



Do you have an article that you would like to submit to the bulletin? We are always looking for interesting articles relating to insurance that will help educate adjusters and vendors!!

Please submit your articles to Manish Patel at mpatel@larrek.com

Are you hosting an event that you would like photos to be included in the bulletin? Please submit them to Manish Patel.



PROVINCIAL DELEGATE REPORT



The 2017 Toronto Delegate Election takes place at the Intercontinental Hotel on March 8th. The guest speaker is John Scott who will tell his story about overcoming adversity. Recall that it was just over a year ago when NHL enforcer John Scott took the hockey world by storm following a fan vote that led to his controversial appearance in the 2016 NHL all-star game. Ultimately he was voted captain, led his team to victory and ultimately was declared the game's MVP.

It is hard to believe that the next major provincial event is the Provincial Conference taking place in our own back yard. Maytoberfest is taking place May 4 – 5 at the Inn of Waterloo. Tickets, hotel rooms, trade show booth space and sponsorship opportunities are selling out fast. Please visit the Provincial Conference website for details – oiaaprovincial.com. Sponsorship enquiries can be directed to sponsorship@oiaaprovincial.com.

Without Prejudice is still looking for informative articles. WP is a great way to share informative educational topics with our entire provincial membership. WP reaches 1600 claims professionals and industry partners on a monthly basis. Please feel free to contact me at stephen.tucker@economical.com if you have any questions or would like more information about publishing an article in WP.

Please remember to follow OIAA events on Twitter, @OIAAOfficial.

Regards,

Stephen Tucker
Kitchener-Waterloo OIAA Chapter, Provincial Delegate



OIAA 2017 Provincial Conference

Inn of Waterloo

May 4-5, 2017

Ticket prices include admission to all events on May 4 & 5
\$140+HST until January 31, 2017 • \$175+HST from February 1, 2017

**Visit www.oiaaprovincial.com or contact info@oiaaprovincial.com
for event details and registration**

May 4

Tradeshow 5-8 pm

70+ Industry Partners will be in attendance

Food and beverages will be served at this event

Industry Partners can purchase an 8'x10' booth for
\$800 + HST

Mix and mingle 8-10 pm

An opportunity to network with those in the Insurance industry

May 5

7 educational sessions

SABS and LAT Panel Discussion – Is this what anyone expected?

Hoarding – Digging out from under the exposure

Casualty Update – The Year in review

Insurance 2.0: The Sharing Economy

Fort Mac Round Table Discussion

VP Claim Panel

Drones Presentation – Outside and Interactive

**The education seminars will be followed by a
dinner and traditional fest hall.**



Tired of handing out pens, paper pads, and other ordinary swag at your trade show booth?

CHECK THIS OUT!

As part of the fun of the Provincial Conference this year, we are handing out specially designed pins that reflect our chosen theme – K-W Oktoberfest! The goal is to have attendees collect customized pins from all of the booths and decorate their bags, hats or lanyards. It's a great collector item and a fun, unique way to get your company name out there *in full colour* for around two bucks each!

Here is the pin which they designed for us:



Orders need to be in by the end of January!

To have your own special event pin for this conference, please contact:

Ana Golobic
Operations Manager
Kitchener-Waterloo Oktoberfest
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Kitchener, Ontario N2G 3G9

Phone: (519) 570-4267 ext. 226
Fax: (519) 742-3072
Email: anag@oktoberfest.ca
Website: www.oktoberfest.ca



OIAA 2017 Provincial Conference Inn of Waterloo • May 4-5, 2017 **CALL FOR SPONSORS!**

We invite you to support the 2017 OIAA Provincial Conference, hosted by the Kitchener-Waterloo chapter at the newly renovated Inn of Waterloo.

Becoming a sponsor of this event is an opportunity to market your organization to 500 insurance professionals and those who service the industry. It includes a large trade show, educational panels and networking events. This year's conference will focus on current topics and trends from across all lines, including commercial, auto and property.

We are excited to be offering diverse social media exposure across all platforms.

Your support is very important to the conference which is why we want to ensure those contributions are well recognized.

We thank you for your support!

If you are interested in becoming a Sponsor please contact
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Jennifer Brown 519-635-3678 or Stephen Tucker 519-497-4632
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Inn of Waterloo • May 4-5, 2017

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 Platinum Social Media Package
 5 Slides to be Displayed on Screen at Trade Show
 Thank You with a 1 Page Company Profile in the K-W OIAA Bulletin
 Special Gift



GOLD - \$3,000 (limit of 10)

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 Gold Social Media Package
 3 Slides to be Displayed on Screen at Trade Show
 Thank You Card in our Bulletin
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SILVER - \$1,500 (limit of 10)

Exclusive Pre-Dinner Cocktail Sponsor (Friday)
 Quarter Page Ad in the Event Program
 Small Banner Located in the Seminar Area (provided by sponsor)
 2 Slides to be Displayed on Screen at Trade Show
 Silver Social Media Package
 Special Gift

Bronze/Hospitality Fest Hall Sponsor - \$1,000

Logo on Conference Website as Hospitality Sponsor
 Name Listed in Event Program as Hospitality Sponsor
 Hospitality Night Social Media Package
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 Entrance of Hospitality Event



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~~Music at Mix and Mingle \$500~~ *SOLD

**These opportunities can be split up or shared eg two \$2,500 wine sponsors

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Road Trip Travel Tips – Snowbirds Odyssey in a Post-Trump World



Authored by:

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Come February, many Ontarians long to take flight (or drive) to warmer climes. Here are some travel tips related to insurance which may assist in navigating the highways and byways south of the border. Despite downbeat CNN coverage (fake news), a south of the border road trip may still retain appeal for some (pending the next Executive Order). Whether you are driving to Manhattan to take in the view from Trump Tower, to Florida to take in a round of golf at Mar-a-Lago, to Nashville to take in Chris Janson's "Boat Song", or simply to a stateside Walmart to sample Ivanka's latest products, we offer a few insurance tips which may serve you well on the road. These tips are equally applicable for a road trip to Washington DC to support our sisters in their next march. (Please drive with caution when approaching the capital as the crowds will be ginormous (sorry Donald)).

Tip One: In your glove compartment have both a pink pussy hat and a Make America Great Again ball cap and wear as required (but not at the same time as that is bound to confuse).

Tip Two: Before hitting the road, review the provisions of your Ontario auto policy (OAP1). In doing so, be mindful the last vestiges of ObamaCare will not cover your healthcare expenses stateside. Newsflash – true news - healthcare is extremely expensive in the United States, particularly emergency medical assistance required in the event of a motor vehicle accident. With the constricted coverage for medical and rehabilitation/attendant

care benefits post-June 1, 2016, purchasing Optional benefits on your OAP1 makes more sense than even when driving stateside. Absent optional coverage, one night in a US emergency room could potentially deplete your entire med/rehab limit. Recovery through OHIP for your treatment and care stateside is extremely limited and you will be responsible for emergency healthcare services not covered by OHIP.

Tip Three: Consider a Travel Medical Insurance policy. These policies generally cover hospital accommodation, incidentals related to your hospital stay, physicians' fees, ambulance and air medical evacuation services, as well as some medical appliances. (If you forget to purchase a policy and require pain relief, Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon and Washington have legalized recreational and medical marijuana).

Be mindful that some travel policies are considered "excess", thus making the automobile insurer a first payor in any event.

Consider, for example, the implications of the Court of Appeal's decision in *RBC Travel Insurance v. Aviva*¹. The unfortunate Ms. Curry was injured in a motor vehicle accident in Michigan and required emergency services. RBC paid the total claim of \$24,000.00 CAN under their travel policy on behalf of Ms. Curry and then brought an action against Aviva (Ms. Curry's motor vehicle insurer) for reimbursement. Aviva resisted on the basis that section 268(6) of the *Insurance Act* made the auto policy excess to any other type of insurance providing the same coverages. The Court of Appeal rejected Aviva's argument, finding that where a policy by its own terms (such as the RBC policy), does not provide first payor coverage, section 268(6) has no application. Primary coverage was found under the

¹ 2006 CanLii 32594 (ON C.A.).

auto policy and Aviva was obliged to reimburse RBC for the medical expenses paid out. Even with a Travel Medical policy, if the wording does not bind the insurer to first dollar coverage, amounts paid by the travel insurer will be subject to reimbursement out of the med/rehab benefits (and limits) under OAP1.

Be mindful as well that most travel medical policies do not cover the costs of emergency medical care due to participation in contact sports or risky activities (which may include drag racing in the streets of LA), alcohol abuse (which may rule out Mardi Gras in New Orleans), an act of war (declared or not) of foreign enemies or rebellion (consider how the Women's March may be perceived).

Tip Four: Remember some circumstances of loss may not be considered "accidents" so as to trigger coverage on your OAP1. For instance, if you are the victim of a robbery or assault in your vehicle this may not be considered an accident. If you slip and fall between your vehicle and the 7-Eleven on your way to purchase a Slurpee (with every intent of returning to your car), this may not be considered an accident. Similarly, a road rage incident or drive by shooting (sadly, you no longer have to go south of the border to experience these) may not be considered an accident. On a more positive note, injuries on a stripper pole in a party bus celebrating a bachelor party in Las Vegas may be considered an accident.

Tip Five: Not every fun toy you may drive on your road trip adventure is considered an automobile. Do not expect that your OAP1 to extend coverage for incidents involving go carts operated on private tracks, pocket bikes operated off road, or golf carts operated solely on the Mar-a-Lago property. Consider as well that your OAP1 may not extend to the Dream Racing Experience at Las Vegas Motor Speedway or the Stock Car Racing Experience at Pocono Raceway.

Dirt biking injuries, however, could have a different result. In *Rougoor v. Cooperators*², the Court of Appeal ruled in favour of coverage for Ms. Rougoor's injuries sustained in a dirt bike accident in Florida. Fortuitously, Ms. Rougoor had her own dirt bike in Ontario which was covered as an automobile under her policy. The Court of Appeal found for consistency the Florida dirt bike must also be considered to be an automobile within the terms of her policy. As Ms. Rougoor had purchased insurance to cover the risk of riding a dirt bike, the policy provided coverage by treating the dirt bike as an automobile and extended coverage for other

"automobiles" driven by Ms. Rougoor in Canada or the United States. Potentially, the same would apply with respect to snowmobile trips in the wilds of Alaska led by Sarah Palin, if insured under your OAP1.

Tip Six: Bring along lots of Tim's cards, moose droppings and Raptors' gear to befriend the locals. Your Canada Goose parka can probably be bartered for goods and services along the way. A straight up trade for the latest line of Martha Stewart or Swamp People products could be considered. (No, it is not drained yet).

Tip Seven: Remember that your OAP1 has territorial limitations. This is important if you want to drive through the States to Mexico before the wall is built. Pursuant to section 243 of the *Insurance Act*, the liability coverages under your policy apply to the ownership, use or operation of the insured automobile in Canada, the United States of America and any other jurisdiction designated in the Statutory Accident Benefits Schedule and on a vessel plying between ports of Canada, the United States or a designated jurisdiction (we assume this means ferries). Section 243(2) provides the same territorial limitations for statutory accident benefits but only for the use or operation (not ownership) of any automobile in those specified geographic areas. Section 2(3) of the SABS provides that the benefits under the Schedule shall be provided in respect of accidents which occur in those geographic areas.

Be mindful therefore, if you choose to avoid travel in the United States (in political protest or due to the high US dollar) and choose to drive in other travel destinations, your OAP1 will not provide coverage.

Consider the plight of Mr. Jowhar³, an Ontario resident who was killed in a motor vehicle accident in Somaliland, Africa, while driving an uninsured vehicle owned by his sister. In denying an application for death benefits, the arbitrator found the legislature intended to restrict accident benefits for accidents "in or outside Ontario" to accidents which occur in Canada or in the United States, or on a vessel plying between the ports of those two countries. The arbitrator found the territorial provisions to be unambiguous with respect to accidents in Africa.

With this in mind, you may wish to consider the US Virgin Islands as a destination. In *TD Insurance v. Baughan*⁴, the issue was whether the term "United States of America" in section 243(2) and the SABS

³ *Jama v. Aviva* (FSCO A13-004308, June 17, 2014).

⁴ [2013] O.J. #1327.

² 2010 ONCA 54.

should be interpreted to include the US Virgin Islands. The Court noted despite the use of the term “United States of America” in the SABS and the *Insurance Act*, no definition of the “United States of America” was provided. Given the ambiguity, the terms of the policy were read in favour of the insured and the US Virgin Islands were considered to be included in the United States of America for the purpose of coverage.

By way of background, prior to the introduction of the territorial limits section in the SABS and section 243(2), coverage was extended to motor vehicle accidents which occurred in Mexico on the basis that the phrase “in or outside of Ontario” meant throughout the world.

In *Baughan*, the Court noted that the term “United States of America” was inherently complex and ambiguous as it may include any combination of the following:

- the 48 continental states;
- the 2 non-continental states (i.e. Hawaii and Alaska);
- the District of Columbia;
- the 3 unincorporated organized territories (one of which is the United States Virgin Islands);
- the 10 unincorporated unorganized territories;
- the extra-territorial jurisdiction of Guantanamo Bay.

The Court accepted that statutory interpretation of insurance coverage in Ontario is guided by an inclusive approach. For instance, if the District of Columbia were not included in the definition, in the ordinary sense, the President of the United States would not live in the United States of America. (The current President seems to avoid this by spending significant periods of time in Manhattan and Mar-a-Lago, with the First Lady maintaining residence in Trump Tower).

The Court heard evidence that persons born in the United States Virgin Islands are declared citizens of the United States of America at birth, they are subject to a US military draft, residents are issued a United States passport and they are entitled to Medicare coverage.

The Court made reference to numerous pieces of Canadian and Ontario legislation which defined the

“United States of America” and found no consistency. For instance, one piece of legislation excluded Puerto Rico, the Virgin Islands, Guam or any other United States of America possession or territory, other legislation included the District of Columbia, Puerto Rico, the United States Virgin Islands or any other territory or possession. Given this, the Court found it impossible to discern what the Ontario legislature meant by the “United States of America”. As such, the ambiguity was construed in favour of the insured.

Keep in mind when planning your destination, coverage under your OAP1 could be extended to any territories annexed to the United States. On the other hand, if the states of New York and California vote to secede from the United States, the coverage under your OAP1 for travel in those states may be in jeopardy. Happy trails!

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- **Bulletin Editor – Open to Industry Partners and Adjuster members in good standing. Position is a 2 year term.**
- **Social Director- Open to Industry Partners in good standing. Position is a 2 year term.**
- **Director- Open to Adjuster members in good standing. Position is a 2 year term.**
- **Secretary- Open to Adjuster members in good standing.**



To enter your nomination, please contact:

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Time is more valuable than ever with busy schedules it is often difficult to support the many insurance events. Leaders within your local Broker, Adjuster, and Insurance Institute associations have been working to organize a winter event that will bring our memberships together providing an opportunity to network with like minded individuals within our community.

Based on your feedback, we recognized that building and creating connections within our industry is important to you and key to career development and success. Our tripartite associations are pleased to extend an invitation to join our sixth annual Local Insurance Associations Charity Curling Bonspiel.

We hope you can come out and join us at Westmount Curling Club on Friday, March 31, 2017. We are offering a morning and afternoon draw so you can still get a half-day in at the office. A buffet style lunch will be catered to both the morning and afternoon curlers, with four (4) end draws providing lots of opportunity to connect with colleagues throughout the local industry.

This is a fun event so experience is not required but we will try to match up experienced groups in the draws along with offering some instructions at the rink. A registration is provided below. It will be first come first served for your choice of a morning or afternoon draw. If you care to sponsor part of the event please indicate so on the registration form. We will present proceeds to the United Way of Kitchener Waterloo. Curling is a really fun social sport that most of us do not get to try or do very often, we really hope you can join us on the 31st.

Prize Sponsorships:
 Jennifer Brown: jen.guttridge@gmail.com
 Scott Heaman : sheaman@advocateinsurancegroup.ca

Location: Westmount Curling Club
Date: Friday, March 31, 2017
Time: 9 a.m. - Start. Select preferred draw time on form below.
Price: \$56 (includes hst). \$226 for a team of 4 (includes hst).
Note: Wear warm clothing and flat, indoor shoes

6th Annual Local Insurance Associations Charity Curling Bonspiel

First name		Last name	
Company		Address	
City/Prov		Postal code	
E-mail	Phone	Fax	

Price
 \$56 per person (includes hst). \$226 for a team of four (includes hst).
 Telephone registrations: 519-579-0184
 E-mail registrations: Conestogamail@insuranceinstitute.ca

Team Member Names:

Select Preferred Draw Time: AM PM
Payment Choice Method: (check one) Cheque Money order

Amount	Date
Signature	

Present Experience

None Curled 1-10 games Curled 10-20 games League Curler

None Curled 1-10 games Curled 10-20 games League Curler

None Curled 1-10 games Curled 10-20 games League Curler

None Curled 1-10 games Curled 10-20 games League Curler



Mail or fax payment to:
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Sponsorship Opportunities

When: Friday, March 31, 2017

Where: Westmount Curling Club

Time: 9 a.m. – Start. *Select preferred draw time on the registration form*

Title Sponsor: Taken— **PAUL DAVIS** **WINMAR**
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Gold Sponsor: \$500.00—Covers the cost of complimentary drink ticket(s) for each attendee at lunch.

Silver Sponsor: \$350.00—Covers the cost of the rink rental for the event and instruction

Bronze Sponsor: A cash donation of your choice that will be contributed to any miscellaneous expenses and/or the total proceeds from the event, to be donated to the United Way of Kitchener Waterloo & Area.

Door Prize: Door Prize of your choice.

Thank you for your support and generosity!

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Beer Pong: Court Attempts to Restack Injury Claims

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A recent Ontario Superior Court decision suggests that you cannot skirt responsibility for drunken party guests by asking them to bring their own booze and serve themselves.

In *Wardak v. Froom*, the Frooms hosted a 19th birthday party for their son and invited several guests who were underage. The two parents acknowledged that they hosted and supervised the party. Unfortunately, they weren't able to supervise most of the guests

because they stayed upstairs while the guests played drinking games in the basement. The parents occasionally visited the basement during the party and knew that there was underage drinking.

Dean Wardak, an underage guest, brought vodka with him to the party and then also played "beer pong" in the basement. Mr. Froom saw Dean come upstairs from the basement visibly drunk and having difficulty walking. Mr. Froom offered to walk Dean home and also asked his daughter and her boyfriend to keep a close eye on him. Unfortunately, Dean ended up leaving on his own, unnoticed. He walked home, got in his car, drove off the road and became a quadriplegic.

At a summary judgment motion, the Frooms argued, among other things, that they should not be held responsible because they had not served alcohol to Dean: he brought his own Vodka and drank it in the basement. Accordingly, the Frooms argued they did not owe a legal duty to Dean. They did not even know what Dean was doing because he was in the basement, so why should they owe him a duty?

The Court rejected that argument.

The Frooms relied on an earlier decision, *Childs v. Desormeaux*, 2006 SCC 18, in which the Supreme Court of Canada held that a social host was not responsible where a guest was over-served and then caused a motor vehicle accident, injuring an innocent third party:

I conclude that hosting a party at which alcohol is served does not, without more, establish the degree of proximity required to rise to a duty of care on the hosts to third-party highway users who may be injured by an intoxicated guest.

In other words, the Court in *Childs* seemed to limit the duty of a social host to individuals served alcohol at the social event. Relying on the above case, the Frooms argued that they could not have liability because, among other reasons, they did not serve alcohol and owed no duty to Dean. The Court disagreed, however, noting that the case could be distinguished from *Childs* because the individual who sustained the injuries, Dean, was a guest at the party.

Although the Court did not decide the case (it will have to proceed to a full trial), Justice Matheson noted that the defendants could be found to have a duty to Dean. Specifically she indicated that the injured party in this case was in closer proximity to the hosts than in *Childs* because he was the person who actually attended at the party. It was further noted that, although the hosts didn't serve alcohol, they knew guests were underage, knew they were drinking, and knew they were intoxicated.

The upshot of the decision in *Wardak v. Froom* is that social hosts could have a duty toward anyone in attendance at an event on their property. The duty could exist, according to the Court, anytime there is "foreseeability of harm". This duty is likely to mean that those who are underage should not be drinking, whether they are served alcohol or bring their own. It is also important for hosts to closely monitor a party, as they could be responsible for someone whether they see them drinking or not. Moreover, those who are inebriated should not be permitted to drive home or leave unattended.

See [Wardak v. Froom](#), 2017 ONSC 1166.

Andrew Mercer is a lawyer at Samis+Company's Waterloo's Office.
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In addition to helping a local family and well respected charitable organization build a home in our community, this event is designed to encourage the members and partners or our association to mobilize together to achieve a common goal in a major way!

We will be visiting our member brokerages to drop off a small information package to principals and to introduce the event to them and their staff, if desired.



In order for us to meet (and hopefully exceed) our goals we are asking for contributions and participation in the following ways;

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Platinum Event Sponsor:

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Please note that all contributors will be provided with a Charitable Donation Receipt and the event will be covered by Habitat for Humanity and their impressive social media team and photographers. We will also feature the event in the following months IBAWR bulletin.

Please contact Joe Dalton anytime by email (jdalton@encoregrp.com) or cell phone (519-573-6682) to discuss in further detail.

Thank you in advance for your consideration and participation. We are looking forward to making this event a huge community and industry success together!





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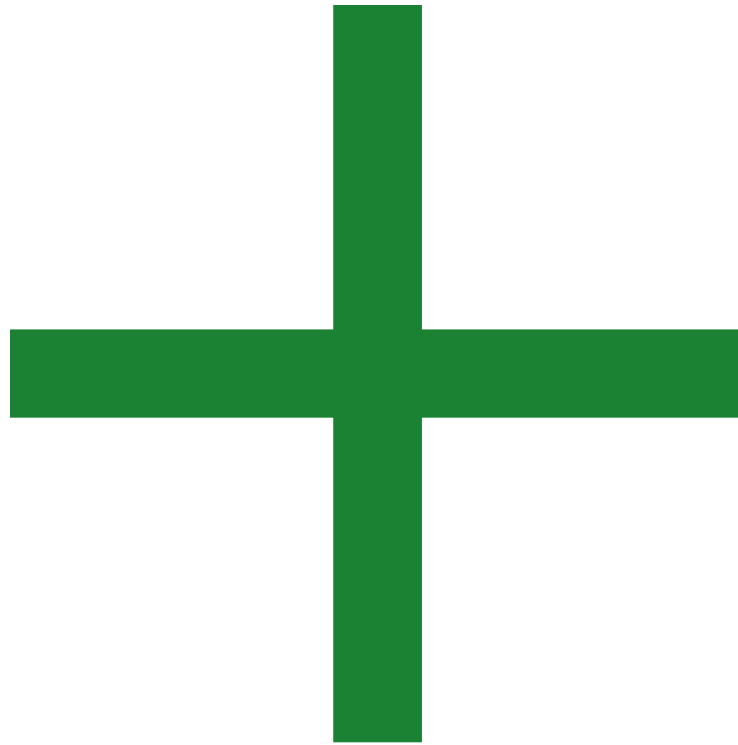




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