

**Mediation Memorandum of the Social Host Defendants,
Homer and Marge Simpson**

These defendants Homer and Marge Simpson own a small house at 123 Evergreen Terrace in Springfield, where they live with their son Bartholomew. On July 1, 2016, Bartholomew had some friends over for an informal gathering, including the plaintiff Jessica Lovejoy. Homer and Marge specifically provided chips and soda for the gathering, notably contrasting with alcohol not being provided. Homer and Marge remained in the house for the gathering in case some emergency arose – above and beyond the standard of care for adult supervision of a gathering of older teenagers.

Homer and Marge did not supply alcohol, or do anything to encourage or facilitate the consumption of alcohol at the party. Their son Bartholomew is an upstanding and well-behaved young man, and Homer and Marge cannot fathom how he could have played any role in the theft of Homer and Marge’s liquor cabinet by Jessica and some other guests, except perhaps by extreme peer-pressure or bullying.

Homer and Marge submit that there was no reasonable foreseeability that Jessica would be in danger leaving upon their house. The accident arose from a series of unrelated intervening events, bearing no causal connection to her intoxication. The foremost intervening event is the actions of the co-defendants Shelbyville Shipping and Otto Mann. To the extent that plaintiff herself contributed to the accident/injury, there is no causal relationship with her condition upon leaving the gathering. The evidence is that she left her helmet straps unclasped to “look cool” and that she was hurrying because of her curfew.

The claim of the plaintiff as against Homer and Marge is predicated in establishing social host liability, as against Homer and Marge. The leading case for social host liability is *Childs v. Desormeaux*, 2006 SCC 18. The Supreme Court, in a unanimous decision by Chief Justice McLaughlin, found no social host liability. Homer and Marge submit that the facts at hand are very favourable in comparison with *Childs*. In *Childs*, the guest was very drunk, and the hosts knew he was very drunk, that he was a heavy drinker, and that he habitually drove drunk. In *Childs*, the guest drove drunk and paralyzed an innocent teenager in an accident with an unrelated vehicle. Even in these circumstances, contrasting so dramatically with the matter at hand, no social host liability was found in *Childs*.

Since the *Childs* decision, over 10 years ago, there have been no successful cases establishing social host liability in Canadian law. However, many have been unsuccessful, including at Summary Judgment (*Ferrier v. Hubbert*, 2015 ONSC 5286 and *Sabourin v. McKeddie*, 2016 ONSC 2540).

The recent decision in *Williams v. Richard*, 2018 ONCA 889 involved one of the hosts drinking along with the guest, and therefore having direct knowledge of his level of drunkenness. It also has more extreme facts than this matter, involving fatalities. It is important to note that *Williams* does not successfully establish social host liability. Rather, the matter on those facts was just found not appropriate for Summary Judgment.

As no social host liability has never been established in Canadian law, and unsuccessful attempts have been made with “better” facts, Homer and Marge submit that the plaintiff will not be able to succeed in this social host liability claim. Homer and Marge may consider a motion for a Summary Judgment dismissal if the matter is not resolved at mediation.