

Ontario Court of Appeal delivers ruling in ATV accident liability case

The accident resulted in a severe brain injury



BY [Angelica Dino](#) / 14 Feb 2024 / Share

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The Ontario Court of Appeal has delivered a ruling in a case involving an all-terrain vehicle (ATV) accident in Prince Edward County, leading to a severe brain injury for the respondent, Megan Desrochers.

In *Desrochers v. McGinnis*, 2024 ONCA 63, the court scrutinized the liability of the ATV owner, Grant McGinnis, his son Patrick McGinnis, and Patrick's mother, Catherine McGinnis, in the unfortunate incident.

Megan Desrochers, who was Patrick McGinnis' girlfriend at the time of the accident, lost control of the ATV owned by Grant McGinnis and collided with a tree, sustaining serious injuries. Subsequently, through her litigation guardian, she pursued legal action against the McGinnis family, claiming damages for the injuries she suffered.

After a seven-day trial focused solely on liability, the judge established liability against Patrick McGinnis, assigning 10 percent contributory negligence to Megan Desrochers. However, the claims against Grant and Catherine McGinnis were dismissed, a decision that was challenged in the appeal.

Patrick McGinnis appealed the finding of liability against him, arguing that the trial judge erred in concluding that he owed Megan a duty of care, breached the standard of care and that his breach caused Megan's injuries. The Desrochers family cross-appealed, contending that the trial judge erred in not finding that Grant and Catherine breached the standard of care and in dismissing the claim against Grant under s. 192(2) of the Highway Traffic Act (HTA), which holds vehicle owners liable for loss or damage sustained by any person due to negligence in the operation of the motor vehicle on a highway.

The [Ontario Court of Appeal](#) dismissed Patrick McGinnis' appeal, upholding the trial judge's decision on liability. Furthermore, the court allowed the cross-appeal against Grant McGinnis under s.

192(2) of the HTA, overturning the trial judge's decision and holding him liable for Megan Desrochers' injuries.

The court reaffirmed the broad interpretation of "negligence in the operation of a motor vehicle" under the HTA, including the negligent transfer of vehicle control to an inexperienced or unfit driver. The court emphasized the responsibility of vehicle owners and operators to ensure that those allowed to drive are adequately trained and competent, particularly in the case of powerful and potentially dangerous vehicles like ATVs.

The court awarded the Desrochers costs of the appeal and cross-appeal jointly against Patrick and Grant McGinnis, fixed at \$37,500, inclusive of disbursements and applicable taxes.

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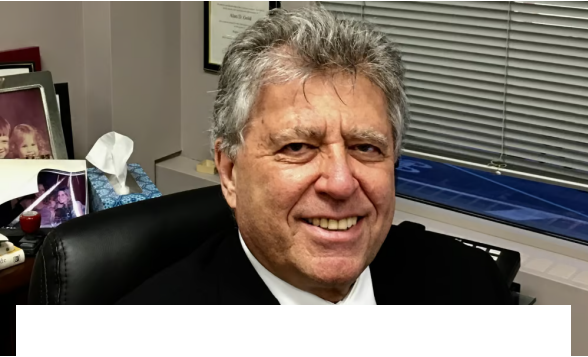
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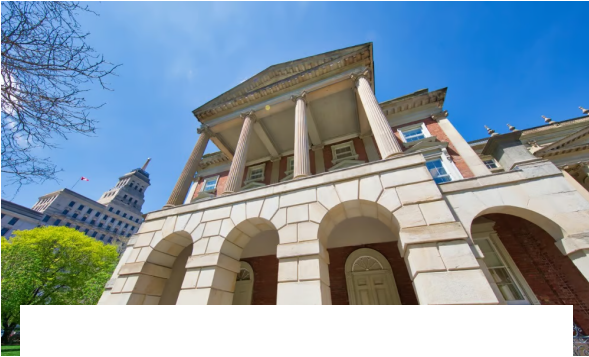
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