

# SOCIAL HOST LIABILITY

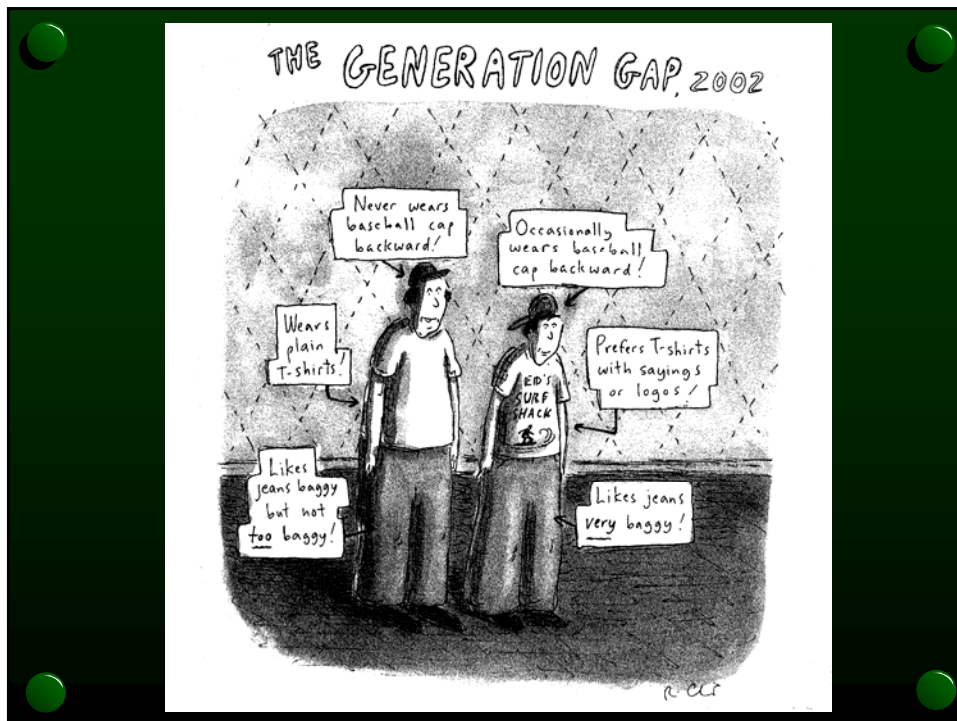
L. Craig Brown  
Thomson, Rogers



*“Fortunately, the law of the jungle doesn’t require lawyers of the jungle.”*

## The Problem

“ By their own accounts, this batch of teenagers can lay credible claim to getting stoned, smashed and laid with more wild abandon than the generation before them. Technology gives them the power to organize, and society throws in its tacit approval. **‘Someone’s parents will go away this summer’**, a Motorola pager ad extols from buses and subways, **‘and when they do, you’ll be ready.’**”



# Risk

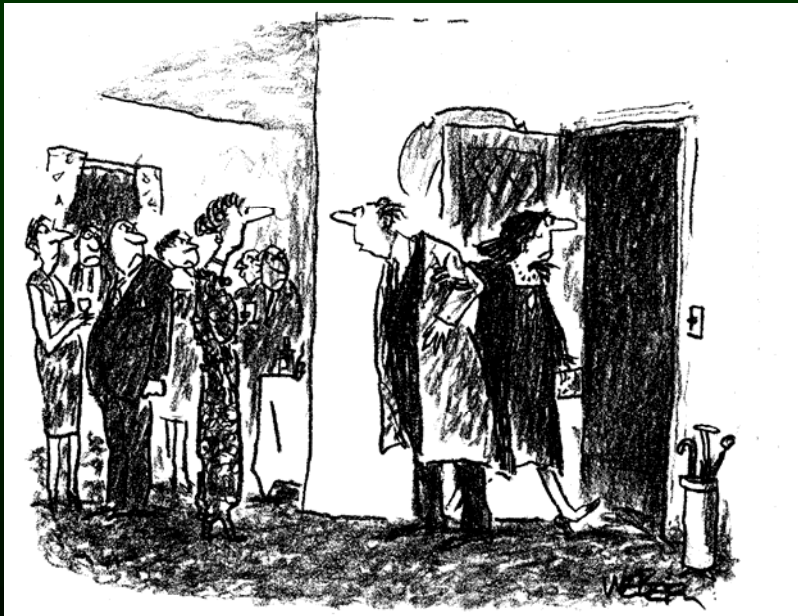
## **Risk = Probability x Consequence**

Statistics on Traumatic injury from all causes make it quite clear.

- ❖ Teenagers are the most risk tolerant of all age groups.
- ❖ Teenage Boys as a sub group are even more risk tolerant.
- ❖ High tolerance of risk affects behavior – teenagers engage more readily and more often than other age groups in high risk activities.

# A CAUTIONARY TALE

- ❖ Leslie W.
- ❖ 18 years old.
- ❖ Graduating from High School in Milton.
- ❖ Attended graduation party in evening of last day of school.
- ❖ BYOB.
- ❖ Lots of friends, lots of drinking.
- ❖ Father of host at home (in bed).
- ❖ Third or fourth party that day.
- ❖ At 1:30am the few remaining guests decided to go swimming in the backyard pool.
- ❖ Leslie and her best friend stripped to their underwear and got ready to jump in the pool.
- ❖ Leslie's friend gave her a shove and she floated to the surface a quadriplegic.



*“On balance, Estelle, your party was not helpful.”*

## The Lawsuit

- ❖ Against the best friend
- ❖ Against the host and his father ( the homeowner )
- ❖ Against the 19 year old purchaser of the beer that Leslie and her friend had been drinking that night.

## The Theory of Liability

- ❖ Unsupervised underage drinking ( social host ).
- ❖ Foreseeable risk of harm from late night swimming.
- ❖ Dangerous mix of alcohol and activity.
- ❖ Occupier's Liability.



*"Your client's refusal to grow up does not preclude him from being tried as an adult."*

## The Final Chapter

- ❖ Multi-million dollar settlement contributed to by insurers and by the homeowner (parent) personally.
- ❖ Leslie wakes up the morning after the settlement still quadriplegic.

## The Law

*Childs v Desormeaux* ( August 30, 2002)

**DUTY OF CARE** – “ The fact this was a BYOB party does not relieve ( the hosts ) from monitoring and making inquiries of ( the guests ). The BYOB situation places more of a duty on the hosts because they do not know how much their guests are consuming”.

**LEGAL LIABILITY** – “ The ( hosts ) had a duty not to turn ( the guest ) loose on the highway where he could cause injury or death to others”.

**PUBLIC POLICY** – “ In conclusion, I find there is good policy reason not to expand tort law to include the social host. In my view, it should be left to the legislature to determine a social host liability and also to properly compensate the innocent victims. As such the action is dismissed.



*“Hey, look before this goes any further, I should probably tell you we’re married.”*

## The Problem Restated

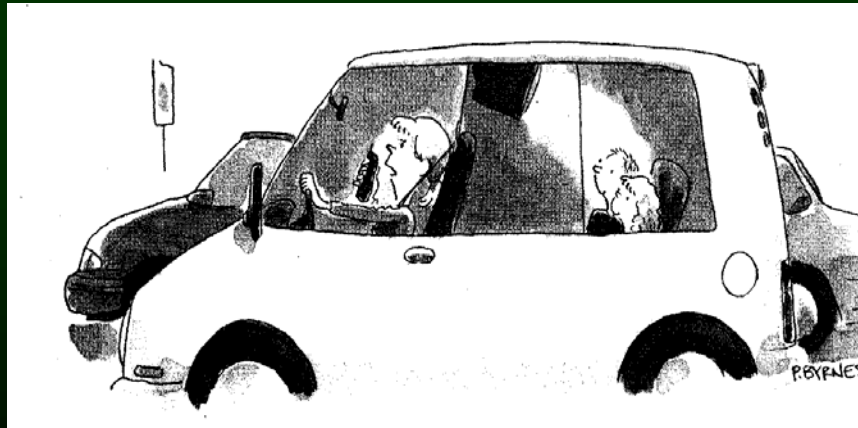
- ❖ The probability of **catastrophic injury** is high where teenagers consume intoxicants.
- ❖ The probability of **litigation** is very high where catastrophic injury occurs at or following a party at which teenagers are consuming alcohol or drugs with the knowledge or tacit approval of the adult hosts.
- ❖ The **current** favorable state of the law will be cold comfort to parents faced with a multi-million dollar lawsuit in a time of evolving legal standards.

## SOME ANSWERS

## Addiction Research Foundation Party Tips

- ❖ Don't drink too much yourself ;
- ❖ Plan ahead so that it's easy to try some of these tips ;
- ❖ Stop serving alcohol a few hours before the party is over ;
- ❖ Find out how guests will be going home from your party ;
- ❖ Plan to deal with guests who drink too much ;

- ❖ Serve drinks yourself instead of having an open bar ;
- ❖ Be prepared for overnight guests ;
- ❖ Serve snacks ;
- ❖ Have a low alcohol and alcohol free cocktails and drinks available too;
- ❖ Don't plan physical activities, like swimming, skiing, snow-mobiling and skating when you are serving alcohol.



*"Will you turn that TV down? Can't you see I'm on the phone?"*

# **SUPERVISE**



**INSURE**

**INSURE**

**INSURE**



**QUESTIONS**