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TEEN'S INVITATION ALLOWS FOR PARENTAL LIABILITY FOR GUEST INJURED ON THEIR PROPERTY

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In *Hoffmann v. Young, et. al*, (2022) 13 Cal.5th 1257, the California Supreme Court held that a teen's parents were liable for injuries sustained by a guest while riding a motorcycle on the motocross track built on their property. The court found that the exception to the recreational immunity defense (*Civil Code Section 846(a)*) does not apply when the injured party was expressly invited by an agent of the landowner whom the landowner has properly authorized to extend invitations to enter the land on their behalf.

An invitation by the child of the landowner who is living on the property qualifies as an express invitation by the parents where the child acts as the parents' agent by expressly making the invitation on the landowner's behalf or subject to their control. However, a landowner does not necessarily authorize a child to expressly invite others to the property, for purposes of recreational-use immunity, merely because they allow the child to live on the land and they do not prohibit the child from extending the invitation. Parents can avoid potential liability for guests invited by children by expressly prohibiting the child from inviting guests.

General Facts

Mikayla Hoffmann was invited by Gunner Young (*the landowner's son*), to ride her motorcycle on a motocross track that was present on the property he shared with his parents. Gunner invited Hoffmann to his house without his parents knowledge. Although there is no direct evidence that Gunner was forbidden by his parents to invite guests over; there was some indication that only family members were permitted to ride on the track. Hoffmann was severely injured while riding her motorcycle on the track.

Hoffmann sued the Youngs for negligence/premises liability. Youngs did not personally, invite Hoffman to the property, she had never been to the property before, Gunner had not asked their permission to invite her there, and he did not

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tell them that he had done so.

The case ultimately went to trial where the Youngs were found not liable. Hoffmann moved for a new trial based, in part, that the express invitee exception to Section 846 was not applicable. The Court of Appeal reversed and remanded the case for a new trial holding that when a child of the landowner is living with the landowner at their property, and the landowner consented to the living arrangement, the child's express invitation to a person to come to the property operates as an express invitation by the landowner with the meaning of Section 846(d)(3) unless the landowner expressly prohibits the child from extending the invitation.

The case then made its way to the California Supreme Court who reversed the ruling by the Court of Appeal and found that the Section 846(d)(3) exception did not apply as a matter of law in this case.

Are the Parents as Landowners Liable for Injuries to Their Child's Friend Invited Guest?

Under the Landowner Liability and Recreational Use Immunity in Civil Code Section 846 the general rule is that a landowner "owes certain affirmative duties of care, as to conditions or activities on the land, to persons who come on the land." (6 Witkin, Summary of Cal. Law (11th ed. 2017) Torts, § 1224, p. 474.) Further, pursuant to *Civil Code* Section 1714, every person "is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property." § 1714, subd. (a). Under Section 1714, landowners owe a duty to exercise ordinary care in managing their property in light of the foreseeability of injury to others. *Rowland v. Christian* (1968) 69 Cal.2d 108, 119.

Before the *Rowland* case, liability was largely determined based upon the visitor's status. They were divided into three categories: invitees, licensees and trespassers. An "invitee is a business visitor who is invited or permitted to enter or remain on the land for a purpose directly or indirectly connected with business dealings between them."⁸ (*Rowland*, at pp. 113–114.) A "licensee is a person like a social guest who is not an invitee and who is privileged to enter or remain upon land by virtue of the possessor's consent." (*Id.* at p. 113.) A "trespasser is a person who enters or remains upon land of another without a privilege to do so." (*Ibid.*; see also *Hamakawa v. Crescent Wharf & Warehouse Co.* (1935) 4 Cal.2d 499, 501.

Generally, landowners did not owe a duty to trespassers and licensees. They were considered to take the property "as they found it in so far as any alleged defective condition thereon that may exist, and the possessor owed them only the duty of refraining from wanton or willful injury." *Rowland*, supra, 69 Cal.2d 92, 102 In regard to business invitees, landowners owe a duty of reasonable care to maintain the premises as safe. and protect the invitee from injury. *Edwards v. Hollywood Canteen* (1946) 27 Cal.2d 802, 809.

When Section 846 was enacted in 1963 it created an exception to these general rules. It states, "An owner of any estate or any other interest in real property, whether possessory or nonpossessory, owes not duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give warning of hazardous conditions, uses of structures, or activities on those premises to persons entering a recreational purpose, except as provided in this section." In effect, Section 846 eliminates two duties for landowners:

- "The duty to keep the premises safe for recreational user, and
- The duty to warn such users of hazardous conditions, uses of, structures, or activities on the premises." *Klein v. United States of America* (2010) 50 Cal.4th 68, 78.

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The central question analyzed by the California Supreme Court in Hoffmann centered on the ability of the actions of non-landowners to bring landowners outside of the recreational immunity provided to them under Section 846. The Court concluded that "an invitation by a non-landowner can, under some circumstances, trigger the exception" to recreational immunity.

In making this determination, the Court pointed to plain language of the statute which specifically refers only to those "expressly invited . . . to come upon the premises by the landowner" (emphasis added). There is no mention regarding invitations made by other persons. The Court did note, however, that the statutory language could not be construed in isolation and must be considered with California statutes governing agency relationships.

In considering Section 846 with California statutes regarding agency principles, the Court concluded whether the exception to Section 846 applied to invitations extended by non-landowners depended on "whether the circumstances establish that a parent has authorized the child to issue an invitation on the parent's behalf, such that the child's invitation strips the landowner of immunity."

In this ruling, the California Supreme Court rejected the Court of Appeal's broad ruling that any invitation by a landowner's child would operate as an express invitation by the landowner if the child was living at the property, the landowner consented to the living arrangement, and the landowner had not prohibited the child from extending the invitation.

Conclusion

The ruling by the California Supreme Court in Hoffmann allows for a case by case assessment of the applicability of Section 846 (d)(3) to cases where a child invites a guest to their parents' property. It does away with the broad approach of the Court of Appeal which could have allowed for virtually any injury occurring to a guest invited by a child to their parents home to result in parental liability absent an evidence that the parents expressly advised the child they could not invite guests to the property.