

NO OBLIGATION FOR DRIVERS TO ENSURE INTOXICATED PASSENGERS ARE BUCKLED UP

By Christopher Lamm

The Superior Court of Justice in Ontario recently examined whether a driver is obligated to ensure that adult passengers wear their seatbelts while travelling in motor vehicles in the case of *Stewart v. The Corporation of the Township of Douro-Dummer*. Mr. Stewart was intoxicated, travelling home from the bar in a taxi and was not wearing his seatbelt when he was in a motor vehicle accident where he was seriously injured. The primary issue that the Court considered was whether Mr. Stewart was vulnerable as a result of his intoxication and was therefore owed a higher duty by the driver of the taxi than would typically be applied to adult passengers.

In considering the duty owed to Mr. Stewart, the Court held that an adult knows (or ought to know) that when they become intoxicated they are less able to make appropriate or safe decisions to protect themselves from harm. Adult passengers, even those intoxicated, are statutorily obligated to ensure their seatbelts are buckled, without exception, and it would be inconsistent to impose a duty on taxi cab drivers to ensure their adult passengers are buckled while travelling in the taxi. The Court concluded that “there is no positive duty on a taxi cab driver to ensure that vulnerable adult passengers are or remain buckled” and dismissed the claim as against the taxi driver and taxi company.

While the decision stands for the proposition that a taxi driver does not owe a passenger a duty beyond providing a functioning vehicle (including seatbelts) and operating the vehicle safely, there is no reason to believe that a different standard would apply to drivers who carry non-paying adult passengers. Given this, the Court seems clear that the failure of an adult to wear a seatbelt rests only with that adult and not with anyone else. That said, the Court relied on the fact that the taxi driver did not contribute to the victim’s level of intoxication when finding that no duty was owed. This leaves the door open for companies or individuals who knowingly contribute to an individual’s intoxication to be found partially liable in the event that the intoxicated individual fails to wear a seatbelt while in a motor vehicle. Companies whose service both includes the operation of a vehicle and the provision of alcohol (e.g. trains, party cruises, limousines and party buses), should remain on guard.

This case is open for appeal, stay tuned for further updates....

Case citation: *Stewart v. The Corporation of the Township of Douro-Dummer*, [2018 ONSC 4009](#)