

## COA Opinion: A duty to supervise a minor child does not apply to a property owner in an ordinary negligence claim, when the minor child's parent is present and the property owner has not assumed responsibility for supervising the child.

15. April 2011 By Jeanne Long

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In *Estate of Domonique Daquan Wheeler v Central Michigan Inns, Inc*, No 296511, the Court of Appeals held that claim for ordinary negligence, rather than premises liability, does not place upon a defendant a duty to supervise a child if the child's parent was present and the defendant does not voluntarily assume responsibility for supervising the child.

In the underlying case, the plaintiff sued for wrongful death, nuisance, and loss of consortium claims that arose out of the drowning of a minor child in a pool on the defendant's premises. The defendant moved for summary disposition, and the trial court granted the motion.

On appeal, the Court of Appeals held that although landowners owe minor invitees the highest duty of care, this duty only arises in premises liability claims. Property owners have an affirmative duty to supervise a minor child that is a guest on their property only when the child is unaccompanied by a parent and the property owner has voluntarily assumed a duty to supervise the child. In this case, the mother was present with the child and the defendant did not do anything indicating that it had voluntarily assumed responsibility for the child. Accordingly, the claim sound only in ordinary negligence, not premises liability, and summary disposition for the defendant was proper.