

## **ONTARIO COURT OF APPEAL: GO-KART NOT AN AUTOMOBILE**

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| Reported Case:                 | Adams v. Pineland Amusements Ltd.   |
| Citation:                      | 2007 ONCA 844   |
| At Issue:                      | Whether insured's automobile policy afforded him a defence and coverage for injuries sustained by insured's son arising from insured's negligence in the operation of a go-kart.  |
| The Court:                     | Ontario Court of Appeal   |
| Judgment<br>Rendered:          | December 5, 2007  |
| Factual Summary:               | Insured's son, an infant, allegedly lost control of a go-kart he was operating after colliding with a go-kart being operated by his father. On behalf of infant son, insured's wife commenced action against amusement park and insured. Insured issued third party claim against his insurer claiming insurer had duty to defend and indemnify him. Insurer alleged insured's automobile policy did not cover the go-kart. |
| Disposition By<br>Lower Court: | The motions judge determined the automobile policy covered damages for injuries from the go-kart accident and the insurer had a duty to defend.   |
| Appellate Decision:            | Appeal allowed. The proper question to be addressed was "whether the go-kart required motor vehicle insurance at the time and in the circumstances of the accident." As it did not, it was not an "automobile" within the scope of the insured's automobile policy.   |