Florida Law Review

Volume 35 | Issue 1 Article 10

January 1983

Torts--Parental Immunity: A Time for Change

Charles A. Postler

TORTS – PARENTAL IMMUNITY: A TIME FOR CHANGE

Ard v. Ard, 414 So. 2d 1066 (Fla. 1982)

Plaintiff, an unemancipated minor,[1] was injured when struck by a motor vehicle.[2] His guardian brought suit against the child's mother and her two liability insurance carriers.[3] The complaint alleged the mother negligently unloaded her son from her vehicle, placing him in peril.[4] The defendants raised the defense of parental immunity and the trial court granted a motion for summary judgment on that basis.[5] Reversing the trial court, the First District Court of Appeal upheld the right of an unemancipated minor child to bring suit against his parent for personal injuries caused by that parent's negligence.[6] On certification,[7] the Florida Supreme Court affirmed and HELD, in a tort action brought for negligence resulting in an automobile accident, the parental tort immunity doctrine would be waived to the extent of the parent's liability insurance coverage.[8]

Common law courts allowed property and contract actions between parent and child.[9] There was no basis in common law for the development of the parental tort immunity doctrine as no personal injury actions between parent and child were recorded prior to 1891.[10] Despite the absence of direct common law support, acceptance of the parental tort immunity doctrine has been justified by analogy to the widely accepted common law doctrine of interspousal tort immunity.[11] Many early authorities recognized that a child's

---

1. *See* Commentary, *Parental Immunity: The Case for Abrogation of Parental Immunity in Florida,* 25 U. FLA. L. REV. 794, 794 n.2 (1973) (explanation of who is an unemancipated child in Florida for purposes of the parental immunity concept).

2. 414 So. 2d 1066, 1066 (Fla. 1982). The supreme court opinion stated another vehicle struck the plaintiff. This conflicts with the lower court's factual determination that plaintiff was struck by his mother's vehicle. *See* Ard v. Ard, 395 So. 2d 586, 587 (Fla. 1st D.C.A. 1981).

3. 414 So. 2d at 1066-67.

4. *Id.* at 1066.

5. *Id.* at 1067.

6. 395 So. 2d at 586. The court concluded there existed no controlling precedent in this state, since the Florida Supreme Court previously had only recognized the rule by dictum. *Id.* at 587.

7. FLA. CONST. art. V, § 3(b)(4). The question certified was: "WHETHER AN UNEMANCIPATED MINOR CHILD MAY MAINTAIN A NEGLIGENCE ACTION AGAINST HIS PARENT." 395 So. 2d at 590.

8. 414 So. 2d at 1067. Although not specifically stated, the instant decision emphasizes that the accident involved a motor vehicle, for which liability insurance is widely available. Courts interpreting this ruling may have been invited to limit it to the facts notwithstanding the broad language of the question certified and answered affirmatively. *See supra* note 7.

9. W. PROSSER, HANDBOOK OF THE LAW OF TORTS § 122, at 865 (4th ed. 1971); Hollister, *Parent-Child Immunity: A Doctrine in Search of Justification,* 50 FORDHAM L. REV. 489, 497 & nn.63 & 64 (1982).

10. McCurdy, *Torts Between Parent and Child,* 5 VILL. L. REV. 521, 527 (1960). There were, however, cases involving actions against one *in loco parentis,* on the premise that a parent would be liable in a similar situation. *See* McCurdy, *Torts Between Persons in Domestic Relation,* 43 HARV. L. REV. 1030, 1061-63 (1930) [hereinafter cited as McCurdy I].

11. RESTATEMENT (SECOND) OF TORTS § 895G comment c (1977).

independent legal status made the analogy to spousal immunity improper.[12] Under common law, the husband and wife were treated as one, but no similar unity of legal identity arose from the relationship between parent and child.[13] Whereas a wife was subordinate to her husband in all legal matters,[14] a child was a separate legal entity capable of owning property and making contracts.[15] More importantly, a child's ability to sue and be sued allowed him to enforce his own choses in action, including those in tort.[16]

The parental immunity doctrine is the product of judicial policy-making by the Mississippi Supreme Court in *Hewellette v. George*.[17] A minor plaintiff sued her mother for injuries sustained through false imprisonment.[18] Without citing any authority,[19] the court held the suit could not be maintained while the child was unemancipated.[20] The court reasoned that public policy required the preservation of "the peace of society, and of the families composing society."[21]

Although *Hewellette* involved an intentional tort,[22] many courts readily extended its holding to negligence actions.[23] Courts justified parental tort im-

12. *See* W. PROSSER, *supra* note 9, § 122, at 865 (decisions in Canada and Scotland held such an action would lie). *See also* Dunlap v. Dunlap, 84 N.H. 352, 356-57, 150 A. 905, 907 (1930) (English authors viewed the child as having a clear capacity to sue the parent for tort).

13. W. PROSSER, *supra* note 9, § 122, at 864-65. For an excellent discussion of the parent-child relationship in comparison to that of husband and wife, see McCurdy, *supra* note 10, at 521-27.

14. The wife's legal existence was suspended for the duration of the marriage, with respect to her personal and property rights. These rights were merged into those of the husband, and thus, she could not sue or be sued without joining the husband as a plaintiff or defendant. The effect was to make it impossible for an individual to sue his spouse, because to do so would have been to sue himself. W. PROSSER, *supra* note 9, at 859-60.

15. *See* McCurdy, *supra* note 10, at 523.

16. *Id.* Suit will usually be brought on the child's behalf by a next friend. If a child is sued, he will be represented by a guardian ad litem. Normally, a parent will act in these roles, unless his interests are adverse to those of the child. Thus, no procedural difficulty prevents a child from maintaining a civil action against a parent. *Id.*

17. 68 Miss. 703, 9 So. 885 (1891).

18. *Id.* The action was brought against the estate of her deceased mother, a factor which substantially lessens the subsequently expressed judicial justification for the immunity—preservation of family harmony. *Id.*

19. *See* Dunlap v. Dunlap, 84 N.H. 352, 358, 150 A. 905, 908 (1930) (asserting *Hewellette* adopted a new rule of exceptional character and did not enforce an established rule).

20. 68 Miss. at 711, 9 So. at 887. The minor plaintiff had been married, but was separated and living with her mother at the time of the alleged injuries. *Id.* It is generally accepted that marriage will emancipate a minor. The court remanded to determine if the parent-child relationship had been reinstated and indicated that if the marriage had dissolved the parent and child relationship, such an action could be maintained. *Id.*

21. *Id.* The court opined that the state's criminal laws provided the child with sufficient protection. *Id.*

22. *Id.* The intentional tort complained of was malicious incarceration in an insane asylum. Other courts soon recognized immunity for intentional acts. *See* McKelvey v. McKelvey, 111 Tenn. 388, 77 S.W. 664 (1903) (action by a child against father and stepmother for cruel and inhuman treatment); Roller v. Roller, 37 Wash. 242, 79 P. 788 (1905) (action by daughter against father for rape), *limited,* Merrick v. Sutterlin, 93 Wash. 2d 411, 610 P.2d 891 (1980).

23. *See* Mesite v. Kirchstein, 109 Conn. 77, 145 A. 753 (1929); Small v. Morrison, 185 N.C. 577, 118 S.E. 12 (1923); Matarese v. Matarese, 47 R.I. 131, 131 A. 198 (1925).

munity to preserve domestic harmony and tranquility,[24] to avoid interference with parental care, discipline, and control,[25] to avoid fraud and collusion between parent and child,[26] and to prevent the depletion of family assets.[27]

The Florida Supreme Court initially recognized parental immunity in *Orefice v. Albert,*[28] which involved the death of a minor child in an airplane crash caused by the negligence of his father, a co-owner of the plane.[29] The action against the father was dismissed, and the only cause of action held permissible was against the plane's other co-owner based on ownership of a dangerous instrumentality.[30] The court recognized the state's established policy of disallowing tort suits among family members[31] to preserve family harmony and resources.[32]

Like many other judicial creations, the parental tort immunity doctrine is mutable.[33] Numerous exceptions have eroded the doctrine to such an extent that few jurisdictions still accept complete parental immunity.[34] Many jurisdictions partially abrogated the doctrine to allow a child to sue the parent for

---

24. *See* Roller v. Roller, 37 Wash. 242, 242-43, 79 P. 788, 788-89 (1905).

25. Matarese v. Matarese, 47 R.I. 131, 132-33, 131 A. 198, 199 (1925) (father has the "duty to control, protect, support, and to guide or educate the child. The reciprocal duty of the child is to serve and obey the father."). *But see* Holodook v. Spencer, 36 N.Y.2d 35, 324 N.E.2d 338, 364 N.Y.S.2d 859 (Ct. App. 1974) (holding parents owe no legal duty of proper supervision to their children).

26. *See, e.g.,* Villaret v. Villaret, 169 F.2d 677, 679 (D.C. Cir. 1948); James, *Accident Liability Reconsidered: The Impact of Liability Insurance,* 57 YALE L.J. 549, 553 (1948).

27. Roller v. Roller, 37 Wash. 242, 245, 79 P. 788, 789 (1905).

28. 237 So. 2d 142 (Fla. 1970). *Cf.* Shivers v. Sessions, 80 So. 2d 905, 907-08 (Fla. 1955) (allowing a wrongful death action by child against stepfather without addressing the possibility of parental immunity).

29. 237 So. 2d at 143.

30. *Id.* at 146. The court conceded the evidence pointed toward no active negligence on the part of the co-owner. *Id.* at 143.

31. *Id.* at 145. Since *Orefice,* every district court of appeal except the first has affirmed parental immunity. *See* Withrow v. Woods, 386 So. 2d 607 (Fla. 5th D.C.A. 1980); Horton v. Unigard Ins. Co., 355 So. 2d 154 (4th D.C.A. 1978), *cert. dismissed,* 373 So. 2d 459 (Fla. 1979); Wright v. Farmers' Reliance Ins. Co., 314 So. 2d 641 (Fla. 3d D.C.A. 1975); Vinci v. Gensler, 269 So. 2d 20 (Fla. 2d D.C.A. 1972) (per curiam).

32. 237 So. 2d at 145. *But see* Vinci v. Gensler, 269 So. 2d 20, 20-22 (Fla. 2d D.C.A. 1972) (per curiam) (Liles, J., dissenting).

33. *See* Briere v. Briere, 107 N.H. 432, 434, 224 A.2d 588, 590 (1966). Since the field of torts is dynamic, tort rules must be constantly examined. If the legislature fails to act when justice requires, then the judiciary must do so. *Id.*

34. *See generally* RESTATEMENT (SECOND), *supra* note 11, § 895G comments d-i. Courts have permitted actions against a parent who has intentionally, wantonly, or willfully injured the child. *E.g.,* Emery v. Emery, 45 Cal. 2d 421, 429-30, 289 P.2d 218, 223-24 (1955); Nudd v. Matsoukas, 7 Ill. 2d 608, 619, 131 N.E.2d 525, 531 (1956); Mahnke v. Moore, 197 Md. 61, 68, 77 A.2d 923, 926 (Ct. App. 1951). Parental immunity does not bar an *emancipated* child from bringing suit against his parent for personal injuries. *See, e.g.,* Martinez v. Southern Pac. Co., 45 Cal. 2d 244, 253-54, 288 P.2d 868, 873 (1955); Lancaster v. Lancaster, 213 Miss. 536, 541, 57 So. 2d 302, 304-05 (1952); Logan v. Reaves, 209 Tenn. 631, 634-37, 354 S.W.2d 789, 790-91 (1962). Furthermore, courts have allowed suits by minor children for injuries inflicted by the parent while acting in a business capacity. *E.g.,* Trevarton v. Trevarton, 151 Colo. 418, 422-23, 378 P.2d 640, 642-43 (1963); Felderhoff v. Felderhoff, 473 S.W.2d 928, 930-31 (Tex. 1971); Worrell v. Worrell, 174 Va. 11, 17, 4 S.E.2d 343, 350 (1939).

injuries caused by the negligent operation of an automobile.[35] One of the chief factors involved in creating this exception has been the existence of liability insurance.[36]

The California Supreme Court rejected the parental tort immunity doctrine in *Gibson v. Gibson*.[37] A minor plaintiff was injured by an automobile as a result of his father's allegedly negligent instructions.[38] The court concluded the danger to family harmony and the fear of fraudulent actions could no longer legitimately support parental immunity.[39] The court, however, conceded that parents must be accorded sufficient discretion to adequately perform their parental functions.[40] The court's solution was to abrogate parental immunity and replace it with a standard of reasonableness viewed in light of the parental role.[41] In considering whether a parent negligently exercised this discretion, a jury would determine whether a reasonably prudent parent would have exercised such discretion under similar circumstances.[42]

The instant case presented an opportunity for the Florida Supreme Court to reconsider the parental tort immunity doctrine in this state. The court reaffirmed the importance of parental immunity, expressing great concern for the intrusion upon the family relationship that would result from litigation between parent and child.[43] The court was equally concerned about jeopardiz-

---

35. Hebel v. Hebel, 435 P.2d 8, 15 (Alaska 1967); Streenz v. Streenz, 106 Ariz. 86, 89, 471 P.2d 282, 285 (1970); Nocktonick v. Nocktonick, 227 Kan. 758, 769-70, 611 P.2d 135, 142 (1980); Lee v. Comer, 224 S.E.2d 721, 724 (W. Va. 1976). Two other jurisdictions waive the doctrine to the extent the damages are covered by the parent's liability insurance. Williams v. Williams, 369 A.2d 669, 673 (Del. 1976); Sorenson v. Sorenson, 369 Mass. 350, 352-53, 339 N.E.2d 907, 909 (1975).

36. *See* McCurdy, *supra* note 10, at 545.

37. 3 Cal. 3d 914, 479 P.2d 648, 92 Cal. Rptr. 288 (1971).

38. *Id.* at 916, 479 P.2d at 649, 92 Cal. Rptr. at 289. Plaintiff was being driven by his father in a car, which was towing a jeep. His father stopped the car on the highway, and instructed plaintiff to get out and correct the position of the jeep's wheels. While doing so, plaintiff was struck by another vehicle. *Id.* at 916, 479 P.2d at 648-49, 92 Cal. Rptr. at 288-89.

39. *Id.* at 919-20, 479 P.2d at 651, 92 Cal. Rptr. at 291.

40. *Id.* at 921, 479 P.2d at 653, 92 Cal. Rptr. at 293. *Cf.* Emery v. Emery, 45 Cal. 2d 421, 430, 289 P.2d 218, 224 (1955) ("[parental] discretion does not include the right willfully to inflict personal injuries beyond the limits of reasonable parental discipline.").

41. 3 Cal. 3d at 921, 479 P.2d at 653, 92 Cal. Rptr. at 293. The California Supreme Court, in abrogating the doctrine, was heavily persuaded by two factors: the public policy to compensate injured persons, and the existence of liability insurance. *Id.* at 922, 479 P.2d at 653, 92 Cal. Rptr. at 293.

42. *Id.* at 921, 479 P.2d at 653, 92 Cal. Rptr. at 293. The exact standard is: "What would an ordinarily reasonable and prudent parent have done in similar circumstances?" *See also* Recent Developments, *Torts-Parental Immunity* — Merrick v. Sutterlin, 56 WASH. L. REV. 319, 334 (1981). Thus, a parent could introduce into evidence any unique factors pertaining to the situation, such as a child's behavioral problems. *Id.* Because the standards' applicability depends upon the individual facts of each case, each jury will make the factual determination. *But see* Pedigo v. Rowley, 610 P.2d 560, 564 (Idaho 1980) (holding that the citizens of its state were "too diverse and independent to be judged by a common standard in such a delicate area as the parent-child relationship.").

43. 414 So. 2d at 1067.

ing the availability of sufficient familial assets to support, protect, and educate the family unit.[44]

The majority, however, tempered its adherence to parental tort immunity by noting contemporary social conditions militate against retaining the doctrine.[45] One of the foremost innovations is the widespread availability of liability insurance.[46] The court recognized that the availability of liability insurance negates many of the policies underlying parental immunity because suits between child and parent can become suits between child and insurer.[47] A suit against the insurer does not disrupt family harmony[48] and actually preserves the family's assets.[49] The court, therefore, limited its abrogation of the doctrine to the extent of the parents' liability insurance coverage.[50]

The instant court refused to allow the possibility of fraud and collusion to negate a child's claim for compensation.[51] Adopting the reasoning of numerous other jurisdictions, the court expressed confidence in the ability of trial judges and juries to closely scrutinize the evidence.[52] The court provided insurance companies with an additional measure of protection by noting public policy allows insurers to negotiate the scope of coverage and to exclude injury to family members from liability insurance coverage.[53] Additionally, premiums can be adjusted to reflect the change in actuarial bases occasioned by the instant

---

44. *Id.* In thus recognizing the need to protect family harmony and resources, the court was merely reiterating the policy rationale of *Orefice.*

45. *Id.*

46. *Id.* at 1068.

47. *Id.* (citing Streenz v. Streenz, 106 Ariz. 86, 88, 471 P.2d 282, 284 (1970)). In his dissenting opinion, Justice Boyd stated that being on opposite sides of a lawsuit inherently puts people in an adversary position regardless of the presence of insurance. *Id.* at 1070 (Boyd, J., dissenting).

48. *Id.* at 1068-69 (citing Sorenson v. Sorenson, 369 Mass. 350, 362, 339 N.E.2d 907, 914 (1975)). Instead of promoting disharmony, the action will undoubtedly ease the family's financial difficulties resulting from the child's injuries. *But cf. id.* at 1070 (Boyd, J., dissenting) (tort actions for ordinary negligence will inevitably lead to disruption of family harmony).

49. *Id.* at 1068 (citing Sorenson v. Sorenson, 369 Mass. 350, 362, 339 N.E.2d 907, 914 (1975)).

50. *Id.* at 1067. The court recognized that the immunity waiver will most often obtain in automobile accidents because more parents own automobile liability insurance. *Id.* at 1068. In his dissenting opinion, Justice Boyd expressed concern that this holding will be applied to instances of ordinary negligence. *Id.* at 1070 (Boyd, J., dissenting).

51. *Id.* at 1069. *See also* Borst v. Borst, 41 Wash. 2d 642, 653, 251 P.2d 149, 154 (1952). The possibility of fraud and collusion accompanies all litigation. 414 So. 2d at 1069. Other courts have similarly observed there is just as much chance of fraud and collusion in an action between an emancipated child and parent. *See, e.g.,* Gibson v. Gibson, 3 Cal. 3d at 920, 479 P.2d at 651, 92 Cal. Rptr. at 291. It is interesting to note that the fraud and collusion argument is the exact opposite of the family harmony argument.

52. 414 So. 2d at 1069 (citing Brooks v. Robinson, 259 Ind. 16, 21, 284 N.E.2d 794, 797 (1972)). The court observed that the close relationship between the parties would naturally make their testimony more vulnerable to impeachment. *Id.* at 1069.

53. *Id.* at 1069. *See* Reid v. State Farm Fire & Casualty Co., 352 So. 2d 1172, 1173 (Fla. 1977). The *Reid* court interpreted the requirement of "security" under the Florida Automobile Reparations Act to refer only to no-fault personal injury protection benefits. In essence, the Act did not prohibit exclusion clauses for family members. *Id.*

decision.[54] The court further qualified its holding by determining the parental tort immunity doctrine would not be waived if the parent were without liability insurance or if the policy excluded coverage for family members.[55]

In limiting recovery solely to the amount of the parent's liability insurance coverage, the instant court substantially lessened the impact of its decision. Insurance companies now have an added incentive either to implement family exclusion clauses or to impose unaffordable premium rates.[56] Many parents will consequently be without liability insurance coverage for their minor children.[57] Without such coverage, under the court's reasoning, no liability can exist[58] because the parental tort immunity doctrine remains intact. The court could have avoided this sophistry either by declaring the exclusion clauses void as a matter of public policy[59] or by entirely abrogating the parental tort immunity doctrine without regard to the presence or absence of liability insurance.[60]

By failing to hold exclusionary clauses in liability insurance contracts void, the court necessarily detracted from its conclusion that the danger of fraud and collusion is minimal. Insurers can use other means to guard against fraud. For example, they can require cooperation clauses in their policy and disclaim liability for lack of cooperation.[61] Additionally, the insurer's interests would be protected at all times because the company's counsel generally represents the parent.[62]

Even if the parental tort immunity doctrine were entirely abrogated, the policies justifying the doctrine may not be compromised. If the parent being sued actually owned liability insurance, according to the court, there would be no threat to the family.[63] On the other hand, it is unlikely a suit would be

54. 414 So. 2d at 1069-70 (citing Florida Farm Bureau Ins. Co. v. Government Employees Ins. Co., 387 So. 2d 932, 934 (Fla. 1980)).

55. *Id.* at 1067.

56. *Id.* at 1070-71 (Boyd, J., dissenting). A family will no longer be able to secure financial protection.

57. *See* Florida Farm Bureau Ins. Co. v. Government Employees Ins. Co., 387 So. 2d 932, 934 (Fla. 1980). Even though the parent has the option to negotiate with different insurance companies for the best coverage, the end result will often be no coverage for the minor child

58. 414 So. 2d at 1071.

59. *See* Mutual of Enumclaw Ins. Co. v. Wiscomb, 97 Wash. 2d 203, 643 P.2d 441 (1982). The court analyzed the Washington Financial Responsibility Act and found the Act created "a strong public policy in favor of assuring monetary protection and compensation" to those injured by the negligence of others. *Id.* ___, 643 P.2d at 442-43. The court declared that family exclusion clauses violated the state's public policy of assuring compensation to victims of negligent drivers. *Id.* at ___, 643 P.2d at 446. *Accord* Hughes v. State Farm Mutual Auto. Ins. Co., 236 N.W.2d 870, 885-86 (N.D. 1975) (holding that a family exclusion clause in a motor vehicle liability insurance policy was void as violative of state public policy).

60. *See, e.g.*, Peterson v. City & County of Honolulu, 51 Haw. 484, 486, 462 P.2d 1007, 1008 (1970).

61. Sorenson v. Sorenson, 369 Mass. 350, 364, 339 N.E.2d 907, 915 (1975).

62. *Id. See also* Lee v. Comer, 224 S.E.2d 721, 726 (W. Va. 1976) (Neely, J., concurring) (advocating that an insurer should have the option of either defending the insured or being the real party in interest).

63. Where there is insurance coverage, a family may actually be melded closer together since all family members will be seeking reparation for the child. Comment, *Child v. Parent: Erosion of the Immunity Rule,* 19 HASTINGS L.J. 201, 217 (1967).

brought absent insurance.[64] A suit brought against an uninsured parent clearly indicates a seed of discord already existed within the family,[65] and there would then be no family harmony to protect.[66] By waiving parental immunity only to the extent of insurance coverage and then inviting insurers to write familial exclusion clauses, the Florida Supreme Court strikes a hollow compromise between the competing needs to compensate injured minors and to preserve family harmony.

The instant court's desire to protect the family unit from unwarranted intrusions is laudable. By limiting abrogation of the parental immunity doctrine only to negligence actions, however, the court failed to recognize the boundaries of the parent-child relationship. Courts admittedly should not intrude unnecessarily upon parental discretion and authority, but harming a minor child through the negligent operation of an automobile involves no exercise of parental discipline or authority.[67] The court failed to recognize that in cases of parental negligence the injury itself, and not the litigation, disrupts the family.[68] By affirming the doctrine of parental tort immunity, the instant court effectively shields uncontrolled parental discretion from judicial scrutiny when no liability insurance exists.[69]

Strong support exists for lessening the court's strict adherence to the parental tort immunity doctrine. The court's concern with protecting family harmony and resources is heavily outweighed by society's interest in providing a negligently injured child with a remedy.[70] A generally accepted tort law principle states that in cases involving negligent or tortious conduct, liability should be the rule and immunity the exception.[71] The instant court transposes this principle by making immunity the rule and liability the exception. Allowing the presence or absence of insurance to be the legally significant factor upon which liability turns is a difficult doctrinal position for Florida law to establish. Furthermore, it is illogical to prohibit a child from suing his parents in tort when he is already able to sue them in property and contract.[72] It is not at all clear that domestic harmony could be disturbed by the former and

---

64. *See* Sorenson v. Sorenson, 369 Mass. 350, 361, 339 N.E.2d 907, 913 (1975); James, *supra* note 26, at 553.

65. Sorenson v. Sorenson, 369 Mass. 350, 362, 339 N.E.2d 907, 914 (1975).

66. Badigian v. Badigian, 9 N.Y.2d 472, 478, 174 N.E.2d 718, 722, 215 N.Y.S.2d 35, 40 (1961) (Fuld, J., dissenting) ("[F]amily harmony must already be at so low an ebb that it is grotesque to deny the child a remedy in the name of preserving that harmony."), *overruled*, Gelbman v. Gelbman, 23 N.Y.2d 434, 438, 245 N.E.2d 192, 193, 297 N.Y.S.2d 529, 531 (1969).

67. *See Gibson*, 3 Cal. 3d at 920-21, 479 P.2d at 652, 92 Cal. Rptr. at 292 ("[T]he parent who negligently backs his automobile into his child . . . cannot claim that his parental role will be threatened if the infant is permitted to sue for negligence.").

68. *See* Falco v. Pados, 444 Pa. 372, 380, 282 A.2d 351, 355 (1971).

69. *See Gibson*, 3 Cal. 3d at 921, 479 P.2d at 653, 92 Cal. Rptr. at 293 (the guise of parental authority has often meant unreviewable discretion).

70. *See* Hebel v. Hebel, 435 P.2d 8, 15 (Alaska 1967).

71. President of Georgetown College v. Hughes, 130 F.2d 810, 812 (D.C. Cir. 1942); Muskopf v. Corning Hosp. Dist., 55 Cal. 2d 211, 219, 359 P.2d 457, 462, 11 Cal. Rptr. 89, 94 (1961).

72. *See* Signs v. Signs, 156 Ohio 566, 576, 103 N.E.2d 743, 748 (1952).