

MINNESOTA

COMPLIMENTARY

# Defense

SPRING 2018



**MOTOR VEHICLE ACCIDENTS,  
GOVERNMENTAL IMMUNITIES,  
TORT CAPS, OH MY!**

**IT'S ALL RELATIVE: HOMEOWNERS  
AND AUTO POLICIES AND  
CHILDREN (OF ALL AGES)**

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# IT'S ALL RELATIVE: HOMEOWNERS AND AUTO POLICIES AND CHILDREN (OF ALL AGES)

BY KERRI J. NELSON, BASSFORD REMELE, P.A.

Minnesota courts have for many years grappled with the definition of terms like “family,” “resident,” “relative,” and “household” in the insurance context. And as laws, social pressures and collective standards evolve, analysis of those terms is unlikely to get easier. Perhaps not surprisingly, the meaning of these terms can become a bit murky in the face of changing family composition, especially changes involving children. In the real world, families regularly undergo divorce, remarriage, or other changes in living arrangements. These can involve foster children, stepchildren, or children under legal guardianship.

Such issues only become more complex as a child gets older and attends post-secondary school, joins the military, or otherwise goes out on their own. Finally, economic pressures, illness or injury, or other life events may result in adult children moving back home to live with their parents, either temporarily or permanently. Injured parties may seek to recover under a parent’s insurance even after the child reaches adulthood and moves out (or moves back in), if the connections to the parental household are strong enough.

Definitions of “insured” that include resident relatives or household members are most often seen in the context of homeowners’ or auto policies (the focus of this article), but may arise under farm or other similar liability policies as

well. Of course, policy language differs significantly among insurers and should always serve as the starting point for coverage analysis. But as a general rule, homeowners’ policies most often (1) exclude coverage for injuries to someone who is a resident of an insured’s household, while (2) providing certain liability coverage when an insured resident injures someone outside the household.

Similarly, Minnesota’s statutory no-fault auto insurance system provides that liability coverages extend to any relative living in the policyholder’s home who does not have a policy of his or her own. Minn. Stat. § 65B.43, Subd. 5.<sup>1</sup>

Minnesota courts seem to agree, for the most part, that the terms themselves (e.g. “family,” “resident,” “relative,” and “household”) are not ambiguous. But the concepts themselves are slippery and do not lend themselves well to bright-line rules and uniform analysis. The courts must engage in a fact-intensive, case-by-case scrutiny that can result in inconsistencies and no doubt contributes to the high percentage of unpublished and outcome-driven decisions.

*It's All Relative continued on page 17*

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1. *Although not the focus of this article, relatively recent (albeit unpublished) legal authority from the state court of appeals suggests that Minnesota courts would uphold “drop-down” provisions that reduce an auto policy’s liability limits to the statutory minimum when an insured is liable for injury to a “family member.” Johnson v. Ironshore Indemn., Inc., No. A16-0994, 2016 WL 7188704 (Minn. App. Dec. 12, 2016).*



*Kerri Nelson focuses her practice in the areas of insurance coverage, complex business litigation, and employment and housing law. Her insurance coverage practice encompasses both coverage analysis and coverage litigation.*

## RESIDENCY APPLIES TO BOTH HOMEOWNERS' AND AUTO POLICIES, BUT IN DIFFERENT WAYS.

For children or others who are not identified as named insureds, coverage generally turns on whether the person is a "resident" of the insured household. And while children living at home may be identified as insured drivers on auto policies, even if not identified by name they are still often an insured "resident relative" or "family member" under the policy and Minnesota's statutory no-fault system.

## AUTO POLICIES

Minnesota's No-Fault Automobile Insurance Act specifically defines "insured" to include certain relatives and minor children.

Subd. 5. **Insured.** "Insured" means an insured under a plan of reparation security as provided by sections 65B.41 to 65B.71, including the named insured and the following persons not identified by name as an insured while (a) residing in the same household with the named insured and (b) not identified by name in any other contract for a plan of reparation security complying with sections 65B.41 to 65B.71 as an insured:

- (1) a spouse,
- (2) other relative of a named insured, or
- (3) a minor in the custody of a named insured or of a relative residing in the same household with a named insured.

A person resides in the same household with the named insured if that person's home is usually in the same family unit, even though temporarily living elsewhere.

*Minn. Stat. § 65B.43, subd. 5.* This definition can, of course, be expanded by policy language. *See, e.g. Holmstrom v. Illinois Farmers Ins. Co.*, 631 N.W.2d 102, 105 (Minn. App. 2001) (where father's auto policy defined "family member" as "a person related to you by blood, marriage, or adoption who is a resident of your household, including ward or foster child," son of insured who resided with his parents was insured entitled to no-fault benefits after he was killed by a motorist while walking along the highway, even though he was old enough to drive and had his own separate auto policy.)

The statute is interpreted to exclude unmarried adults living in the insured's household unless they are a "relative" of a named insured, *i.e.* "related by blood or marriage." *Kruse*

*v. Minn. Auto. Assigned Claims Bureau*, 371 N.W. 2d 602, 604 (Minn. App. 1985) (citing *Mickelson v. Am. Fam. Mut. Ins. Co.*, 329 N.W.2d 814, 816 (Minn. 1983)). In other words, unless a specific auto policy provides otherwise, the term "insured" does not include an unmarried adult partner or ex-spouse, or even a person engaged to be married to the insured, assuming that person is a legal adult. *See Kruse*, 371 N.W. 2d at 604-05.

Also excluded are foster children or non-relative wards once they reach the age of majority. Generally, a foster child who is still under the age of majority and resides in the household would be covered because he or she would be in the care of a named insured. Once a foster child reaches the age of majority, however, absent contrary language in the policy, he or she is not a "relative" insured under the statutory no-fault definition. *Park v. Gov't Employees Ins. Co.*, 396 N.W.2d 900 (Minn. App. 1987) ("Since Michael Park cannot be included within the policy's definition of 'relative,' we need not address the question of residency under the policy.") *See also Johnson v. Allstate Prop. & Cas. Ins. Co.*, 890 F. Supp. 2d 1100, 1105 (D. Minn. 2012) (noting unfairness of result but holding that "[b]ecause [18-year-old] Johnson was not related to [foster parent] Shepard by blood or marriage, she is not a relative under Minnesota statute or the language of the policy and therefore is not an insured.") (Note that because homeowners' policies may apply different language in defining who is an insured, it might be possible for a foster child who reaches the age of majority but still resides with his or her foster family to continue to be an insured under their homeowners' policy, but not under an auto insurance policy.)

And minor children who do not live at home may also be excluded. *See Allstate Prop. & Cas. Ins. Co. v. Myllykangas*, 504 F.Supp. 2d 596 (D. Minn. 2007). Teri Myllykangas was a 17-year-old who did not live at home with her parents. Instead, she lived with another family. She was driving an automobile belonging to the other family when she collided with a car being driving by Rebecca Albers. Allstate, which insured Teri's parents, brought a declaratory judgment action, in which the insurer for the Albers also intervened. Teri was not a named insured on her parents' policy, having been removed after she moved out of her parents' house. The sole issue before the court was whether Teri was a "resident" of her parents' household. The court found that she was not, because she was not "physically present," and did not evince an "intent to return or continue to live in the Myllykangases' household." *Id.* at 603.

## HOMEOWNERS' POLICIES

Homeowners' policies generally contain exclusionary language precluding coverage for bodily injury to an "insured." *See, e.g., Vierkant v. Amco Ins. Co.*, 543 N.W.

2d 117, 120 (Minn. App. 1996) (noting that “[i]f given a choice, persons shopping for homeowners’ insurance would probably not choose to have a household exclusion. Nevertheless, household exclusions are standard in the industry.”) The applicable exclusion in *Vierkant*, for example, excluded coverage for “bodily injury to you or an insured,” with “insured” defined to include:

[y]ou and residents of your household who are:

- a. your relatives; or
- b. other persons under the age of 21 and in the care of any person named above.

*Id.* at 119. Although the household exclusion was criticized by the court of appeals in *Minnesota Mut. Fire & Cas. Ins. Co. v. Manderfeld*, it was found unambiguous and reluctantly upheld. 482 N.W.2d 521, 526 (Minn. App. 1992), (noting that “the public policy issue is not a proper determination for the district court”). See also *Am. Family Mut. Ins. Co. v. Ryan*, 330 N.W.2d 113, 116 (Minn. 1983) (declining to invalidate household exclusion even in light of abrogation of parental immunity by *Anderson v. Stream*, 295 N.W. 2d 595 (Minn. 1980)).

The flip side of the coin for homeowners, of course, is that the policy provides defense and indemnity coverage for the otherwise-covered acts of insureds, which would include household residents who are relatives and other household members in the care of a named insured.

## HOW DO THE COURTS APPLY HOUSEHOLD RESIDENCY TESTS?

Under both homeowners’ and auto insurance policies, courts are frequently tasked with determining whether someone is a resident of a particular household. Minnesota courts generally have little difficulty finding “residence terms in insurance policies” to be unambiguous. See, e.g. *State Farm Mut. Auto. Ins. Co. v. Gibbs*, No. 13-524, 2014 WL 1116874 at \*5 n.3 (D. Minn. Mar. 20, 2014) (collecting cases). “Residence” is determined as of the time of the accident or event that triggers a claim for coverage. *State Farm Fire & Cas. Co. v. Short*, 459 N.W. 2d 111, 114 (Minn. 1990).

But other than this, there seem to be few bright-line rules in determining residency; while the courts have identified factors to consider, they are more likely to impose a “totality of the circumstances” test, leading to divergent results—often outcome-driven—and large numbers of unpublished cases.

A person’s “residency” for insurance purposes is generally a question of fact. *Wood v. Mut. Serv. Cas. Ins. Co.*, 415 N.W.2d 748, 750 (Minn. App. 1987) (citing *Fruchtman v. State Farm Mut. Automobile Ins. Co.*, 142 N.W.2d 299, 300 (Minn. 1966)); see also *Frey v. United Servs. Auto. Ass’n*, 743 N.W. 2d 337, 334 (Minn. App. 2008). If the material facts are undisputed, however, which they often are, the court may determine residency as a matter of law. *Am. Fam. Mut. Ins. Co. v. Thiem*, 503 N.W. 2d 789, 790 (Minn. 1993).

In evaluating whether a person can be deemed a resident relative, and therefore an insured, courts have taken an “I know it when I see it” approach to the term “household” as used in a typical policy:

There isn’t much disagreement in the definitions of “household,” whether they emanate from judges or lexicographers. The word [household] is synonymous with “family” but broader, in that it includes servants or attendants, “all who are under one domestic head; persons who dwell together as a family.”

*Engebretson v. Austvold*, 271 N.W. 809, 810 (Minn. 1937), citing 30 C.J. 474; see also *Tomlyanovich v. Tomlyanovich*, 58 N.W.2d 855, 860 (Minn. 1953) (quoting *Engebretson*).

In 1982, the Minnesota Supreme Court adopted an analysis from a previous Wisconsin case, further elaborating on the concept of “household.” *Firemen’s Ins. Co. of Newark, N.J. v. Viktora*, 318 N.W.2d 704 (Minn. 1982) (citing *Pamperin v. Milwaukee Mut. Ins. Co.*, 197 N.W.2d 783, 789 (Wis. 1972)).

The *Viktora* court agreed that the term “household” had been considered “synonymous with ‘family’ and as including those who dwell together as a family under the same roof.” *Id.* at 406. But “household,” the court noted, meant something more than that:

“[H]ousehold” refers to a social unit which is something more than a group of individuals who occasionally spend time together in the same place. Thus, in order to determine whether an individual is a resident of the insured’s household, [courts] must look at the nature of the individual’s relationship with the social unit that makes up the insured’s household and not simply at the individual’s connection to the place where the insured resides.

*Lott v. State Farm Fire & Cas. Co.*, 541 N.W.2d 304, 307 (Minn. 1995) (citing *Viktora*, 318 N.W. 2d at 706); see also *State Farm Mut. Auto. Ins. Co. v. Gibbs*, No. 13-524, 2014 WL 1116874 at \*6 (D. Minn. Mar. 20, 2014) (citing both *Lott* and *Viktora*).

*Viktora* established a three-factor analysis of household/residency:

1. Whether the relative was living under the same roof as the insured;
2. Whether the relationship is “close, intimate, and informal”; and
3. Whether the intended duration of the residence was likely to be substantial, such that it would be “reasonable to conclude that the parties would consider the relationship” when contracting for insurance.

*State Farm Ins. Cos. v. Haeflinger*, No. C6-97-1047, 1997 WL 739403 at \*1 (Minn. App. Dec. 2, 1997) (citing *Viktora*). In *Haeflinger*, for example, a woman was seriously injured while a passenger in a car driven by Kurt Haeflinger. State Farm insured Haeflinger and tendered its policy limit. The injured person’s representatives then sought additional insurance from Haeflingers’ parents’ policies, arguing that although Haeflinger was living apart from his parents at the time of the accident, he still had some connection to his parents’ home, particularly the receipt of mail there. The district court held, and the appellate court affirmed, that Haeflinger’s contacts with his parents’ home were too limited to create any material question of fact, and that he was not a “resident” of his parents’ household entitled to be an “insured” under their homeowners’ policies. *Id.* at \*3.

Courts applying the *Viktora* analysis often combine the first two factors and equate them with the concept of “family.” *Damsgard v. Liberty Mut. Ins. Co.*, No. 08-1416 (RHK/AJB), 2009 WL 2424442 (D. Minn. Aug. 5, 2009) (citing *Viktora*). *Damsgard* involved the minor child of divorced parents. The mother had legal and physical custody. The child was injured while in the care of her father, during a week-long visitation period. At the time of injury, the child’s father was living in the home of his mother (the children’s grandmother), and the child would stay there as well during visitation periods. When the child’s mother sued the father for the child’s injuries, he sought coverage under his mother’s homeowners’ insurance. The question for the court was whether the child was also a resident of the grandmother’s household, thereby precluding coverage under the household exclusion. *Id.* at \*2. The court examined a number of factors, including the closeness of the father-daughter relationship, and even the father’s parenting capabilities (such as whether he had a car seat for the child) but declined to rule as a matter of law whether the minor child was also a resident of the grandmother’s household. *Id.* at \*5.

The third *Viktora* factor consists of two parts, focused on the parties’ subjective intentions: (i) the intended duration of the residence and (ii) whether it would be reasonable to conclude that the parties would consider the relationship

when contracting for insurance. *See, e.g., Abdi v. State Farm Ins. Co.*, No. A07-2424, 2008 WL 5136957 at \*3 (Minn. App. Dec. 9, 2008) (quoting *Johnson v. Am. Econ. Ins. Co.*, 419 N.W.2d 126, 129 (Minn. App. 1988) (noting that residency clauses are assumed to be “aimed at benefiting those whom the insured ‘would ordinarily want [the policy] to protect.’”)) *Abdi* involved second cousins who had immigrated to America and were sharing an apartment. When one of the cousins was injured in a car accident, he sought coverage from the other’s no-fault insurer. The court engaged in a detailed analysis of the history of their relationship, but held that at the time of the incident, “the facts in the record demonstrate that the two men did not have a special relationship from which an “assumption of protection might be inferred.” *Id.* at \*4.

As seen in the more recent cases, courts have somewhat relaxed the scope of residency analysis while continuing to pay lip service to the three *Viktora* factors. In 1988, the Minnesota Court of Appeals identified five factors to consider as part of the residency analysis:

- (1) the age of the injured person,
- (2) whether the person had established a separate residence,
- (3) whether the person was self-sufficient,
- (4) the frequency and duration of the person’s presence at the policyholder’s home, and
- (5) whether the person intended to return to the family home.

*Wood v. Mut. Serv. Cas. Ins. Co.*, 415 N.W. 2d 748, 750 (Minn. App. 1987). The *Wood* court noted that “[t]he fact that belongings remain in the home and the home continues to be the mailing address may be considered, but are not dispositive.” *Id.* at 751.

Still later, the federal court described the *Viktora* factors as a “totality of the circumstances” test. *Allstate Prop. & Cas. Ins. Co. v. Myllykangas*, 504 F.Supp.2d 596, 601 (D. Minn. 2007). In 2010, the Minnesota Court of Appeals noted that the *Viktora* factors were more like guidelines: “Our cases reflect that we utilize the [*Viktora*] factors to inform the analysis of the residency question, but we do not apply them rigidly. Rather, we interpret the factors broadly so that all aspects of the relationship are examined.” *American Family Mut. Ins. Co. v. Larson*, No. A09-784, 2010 WL 1439687 at \*3 (Minn. App. Apr. 13, 2010), quoting *McGlothlin v. Steinmetz*, 751 N.W. 2d 75, 83 (Minn. 2008).

And more recently, in *State Farm Mut. Auto. Ins. Co. v. Gibbs*, No. 13-524, 2014 WL 1116874 at \*6 (D. Minn. Mar. 20, 2014), the federal court noted that in some circumstances, *Viktora*

might not be the correct analysis, or that it should be used only as a supplemental tool. The court stated, “[w]hen the policy does provide additional information about the meaning of resident relative, courts do not rely solely on the *Viktora* factors... Thus, the court will look to the *Viktora* factors only to the extent that they are useful in considering whether [the putative insured] lived elsewhere only temporarily.”

The current state of the law suggests that the *Viktora* factors, while frequently cited, provide only a loose framework for residency analysis. In this arena, perhaps no issue is as fraught with inconsistency as the case of adult children and their relationship to their parents’ household, discussed in more detail in the next section.

### THE SPECIAL CASE OF ADULT CHILDREN

Generally, once a young adult moves out of his or her parents’ home, settles down, and establishes his or her own residence (including post-secondary school or military service), the young adult is no longer a “resident relative” for auto insurance purposes. See *North Star Mut. Ins. Co. v. State Farm Mut. Auto Ins. Co.*, No. A14-0048 (Minn. App. Aug. 11, 2014) (discussing cases).

But this is not always the case. See, e.g., *American Family Mut. Ins. Co. v. Larson*, No. A09-784, 2010 WL 1439687 at \*6 (Minn. App. Apr. 13, 2010) (court declined to grant summary judgment to insurer due to fact question as to whether a young adult intended to move back home to his mother’s house after his apartment lease ended, and therefore whether he qualified for liability coverage under her homeowners’ insurance policy.) See also *Schoer v. West Bend Mutual Ins. Co.*, 473 N.W. 2d 73 (Minn. App. 1991) (Where 21-year-old returned home frequently from secondary school, did not establish a separate permanent residence, and received financial support “when needed” from his mother, appellate court would not overturn jury verdict that he was a resident relative for purposes of his mother’s no-fault auto policy.)

One significant factor in the analysis is the extent to which the adult child is “self-supporting.” If an adult child moves back home and is not “self-supporting,” meaning that he does not pay rent, and has services such as laundry provided by the parent, then it is more likely a court will find he “enjoyed the intimate, informal family relationship indicative of a legal residency.” *Firemen’s Ins. Co. of Newark, NJ v. Viktora*, 318 N.W.2d 704, 705 (Minn. 1982).

A frequently cited resident relative case involving a young adult is *Wood v. Mut. Svc. Cas. Co.*, 415 B.W.2d 748 (Minn. App. 1987). In *Wood*, the son, Steven, enlisted in the U.S. Army at age 17 and was stationed abroad for two years before returning to the U.S. and being assigned to Fort Riley, Kansas. After he enlisted, his parents removed him

as a named driver from their auto insurance policy, but the policy also provided coverage for “a person related to [the named insured] by blood, marriage or adoption who is a resident of your household including a ward or foster child.” *Id.* at 750. While on leave, Steven was injured while a passenger in an uninsured automobile. The court found that he remained an insured under his parents’ auto policy because

He never established a separate residence and continued to be dependent on his parents for some support. His career plans were uncertain. He considered both an Army career and involvement in his parents’ business in Warroad. He returned to his parents’ home every time he had the opportunity and stayed there the entire time. Both he and his parents testified that they considered the parents’ home as Steven’s permanent home and his stay in the Army was temporary. He sent most of his money home where his parents could use it or send it to him when needed. Most of his personal belongings remained in the home. We find he clearly intended to return home.

*Id.* at 751. But an adult who moves back home may not be a resident if the evidence shows that the stay is not expected to be “substantial.” *Barradas v. State Farm Mut. Auto Ins. Co.*, No. A05-1097, 2006 WL 852102, at \*3 (Minn. App. Apr. 4, 2006).

As we can see in the cases, the residency analysis involving adult children is difficult, because it relies heavily on vague, ambiguous, and indefinable factors such as the person’s “intent,” the extent to which he or she is “self-supporting,” the person’s relationship with the family unit, and a myriad of other case-specific questions. Practitioners should carefully evaluate as many factors as possible before making coverage recommendations in such cases.

### SEVERABILITY CLAUSES IN LIABILITY POLICIES

One issue that may surprise coverage practitioners is the operation of severability clauses with regard to named insureds who maintain different residences.

The primary case addressing operation of a severability clause in the context of a household exclusion is *American Nat’l Fire Ins. Co. v. Estate of Fournelle*, 472 N.W. 2d 292 (Minn. 1991). *Fournelle* involved a particularly tragic set of circumstances. A father and mother had separated pending a divorce, and the father moved out of the family home. Shortly thereafter, he arrived at the house and shot and killed the couples’ two teenage sons and himself.

The mother brought a wrongful death action, which the father's estate tendered to the homeowners' insurer that had issued a policy for the family home. Both father and mother were named insureds under the homeowners policy, and the policy contained fairly standard household exclusion language, excluding coverage for "bodily injury to you and any insured within the meaning of part a. or b. of Definition 3. "insured." Definition 3 provided that "insured" means you and the following residents of your household: a. your relatives; b. any other person under the age of 21 who is in the care of any person named above." *Id.* at 293. The policy also contained a standard severability clause providing that "[t]his insurance applies separately to each insured." *Id.* at 293-94.

The court held that the policy language was ambiguous, without discussion of what ambiguity it had found. It ruled that the severability clause required separate application of the household exclusion to each named insured, and because the boys were not residents of the father's household, their injuries were not excluded and there was coverage for the father's estate. *Id.* at 294. The court was sharply divided, with three justices dissenting, noting that the majority was, among other things, disregarding existing law about the difference between "any insured" and "the insured." *Id.* at 296, 97, Coyne J., dissenting.

Subsequent cases often take pains to distinguish *Fournelle*. See, e.g., *Reinsurance Ass'n of Minnesota v. Hanks*, 539 N.W.2d 793, 797 (Minn. 1995) ("Whether or not Crystal Hanks is treated as "separately insured with a distinct policy," she remains a person under 21 years of age in the care of the insured.") But see *State Farm Fire & Cas. Co. v. Ewing*, 269 F.3d 888, 893 (8th Cir. 2001) (citing *Estate of Fournelle* and holding that "[b]ecause of the severability provisions, the exclusion precludes coverage only if Burton and Mary Beth were living in the same household at the time of her death.")

#### **MAY A PERSON BE A MEMBER OF TWO HOUSEHOLDS?**

Minnesota courts regularly (but not always) hold that a minor child may be a resident of more than one household at the same time, especially if the child's parents live apart. Note that "household" is not the same as "domicile": "While it is possible to have only one domicile, it is possible for insurance purposes to be a resident of more than one household." *American Family Mut. Ins. Co. v. Thiem*, 503 N.W. 2d 789, 790 (Minn. 1993)

A child of divorced parents may be—but is not automatically considered—a resident of both households. *Thiem*, 503 N.W. 2d 790. This is true even if one of the parents is a noncustodial parent, as in *Thiem*. But see *Justus v. Justus*, No. A07-1945, 2008 WL 4471405 at \*4-5 (Minn. App. Oct. 7, 2008) (child was not resident of noncustodial

father's household; even though father had some overnight parenting time, children's needs were not fully provided for by father because mother had to send overnight bags with the children on those occasions.) While a divorce or custody order is pending, generally "[c]hildren ... residing temporarily with one parent pending a dissolution decree awarding legal custody are residents of both parent's [sic] households for purposes of the No-Fault Act and uninsured motorist coverage." *Krause by Krause v. Mut. Serv. Cas. Co.*, 399 N.W.2d 597, 602 (Minn. App. 1987).

The question of whether a legal adult may be a resident of two households is less established. In *McGlothlin v. Steinmetz*, the Minnesota Supreme Court declined to rule on the question. 751 N.W.2d 75, 84 (Minn. 2008). But in *Vang v. Illinois Farmers Ins. Co.*, the Minnesota Court of Appeals upheld a finding that a 19-year-old was a resident of more than one household for purposes of obtaining UIM benefits under a policy issued to his sister and brother-in-law. No. A09-1249, 2010 WL 1191629 (Minn. App. Mar. 30, 2010). The federal court has indicated that a person may maintain a second household for the benefit of a dependent adult child, even if she does not live there. See *State Farm Fire & Cas. Co. v. Ewing*, 269 F.3d 888 (8th Cir. 2001). But see *Cates ex rel. Winter v. N. Star Mut. Ins. Co.*, No. A08-0690, 2009 WL 305510, at \*5 (Minn. App. Feb. 10, 2009) (noting that "there is no precedent in Minnesota for the proposition that an adult may maintain two households even though the adult resides in only one household.") As a result, this particular issue remains unsettled under Minnesota law.

#### **CONCLUSION**

Given the ever-shifting nature and composition of the family unit, insurance-related residency analysis with regard to children will probably remain unsettled for the foreseeable future. And as families form and break up, and adult children move out of or into their parents' homes, it's fair to say that insurance is probably *not* the issue foremost in the minds of parents and guardians. Nevertheless, it is—or should be—on the minds of coverage practitioners involved in these cases. The fact-specific nature of household residency can preclude summary judgment and require trial with its attendant fees. Practitioners should scrutinize the applicable policy language and structure their discovery efforts (whether EUOs or litigation discovery) accordingly.