

Third District Court of Appeal

State of Florida, July Term, A.D. 2007

Opinion filed October 3, 2007.
Not final until disposition of timely filed motion for rehearing.

No. 3D06-2791
Lower Tribunal No. 05-21841

Deopersad Kumarsingh and Rosalie Kumarsingh,
Appellants,

vs.

PV Holding Corp. and Avis Rent A Car System, Inc.,
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Michael A. Genden, Judge.

Arnold R. Ginsberg; Manuel R. Morales, for appellants.

Marlow, Connell, Valerius, Adler, Newman & Lewis, and Philip Glatzer, for appellees.

Roy D. Wasson for The Florida Justice Association, as amicus curiae.

Gaebe Mullen Antonelli Esco & Dimatteo, for Ryder Truck Rental Systems, Inc., as amicus curiae.

Richard P. Schweitzer and Craig M. Cibak (Washington, D.C.), as amicus curiae.

Before GREEN, WELLS and SUAREZ, JJ.

SUAREZ, J.

On December 23, 2004, Juan Ortiz crashed his rental car into the Kumarsinghs' vehicle. Ortiz had rented the car from Avis with a valid Mexican driver's license. Ortiz was uninsured. Mr. Kumarsingh was permanently injured in the accident, and his wife sought \$100,000 damages for loss of consortium. The plaintiffs filed suit against PV Holding Corp. and Avis Rent A Car System, Inc., on November 7, 2005, alleging vicarious liability as owners/lessors of the car, and negligent entrustment.¹ The defendants answered that they were immune from vicarious liability pursuant to 49 U.S.C. section 30106 (2005),² also known as the

¹ The negligent entrustment claim is not at issue here.

² 49 U.S.C. § 30106. Rented or leased motor vehicle safety and responsibility

(a) In general.--An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if--

(1) the owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and

(2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner).

(b) Financial responsibility laws.--Nothing in this section supersedes the law of any State or political subdivision thereof--

(1) imposing financial responsibility or insurance standards on the owner of a motor vehicle for the privilege of registering and operating a motor vehicle; or

the owner for the privilege of owning and operating a motor vehicle, or that imposes liability on entities engaged in renting motor vehicles for failure to meet state insurance standards. After thoroughly reading the record, and statutory and case authorities, we hold that the trial court correctly concluded that the Graves Amendment, by its clear and unambiguous wording, supersedes and abolishes all state vicarious liability laws as they apply to lessors of motor vehicles for causes of action that arose after the effective date of that federal statute. See Garcia v. Vanguard Car Rental, USA, Inc., No. 5:06-CV-220-OC-10GRJ, (M.D. Fla., March 5, 2007) (discussing the dichotomy between vicarious liability and financial responsibility, and the Graves Amendment's preemption of subparagraph 324.021(9)(b)(2), Florida's vicarious liability scheme). We find that the trial judge also correctly limited the judgment under the exemption provided in 49 U.S.C. section 30106(b)(1) to the financial responsibility limits set forth in subsection 324.021(7), Florida Statutes (2005).

Affirmed.

Graves Amendment, which became effective August 10, 2005, prior to the plaintiffs filing suit. After hearing argument on the defendants' motion for summary judgment the trial court granted the motion, concluding that the federal statute abrogated subparagraph 324.021(9)(b)(2), Florida Statutes (2005), Florida's statute governing vicarious liability of auto lessors, as of the federal statute's effective date and that but for the Graves Amendment, the trial court would have entered judgment in plaintiffs' favor up to the state's statutory vicarious liability caps. The trial court found that the defendants were liable only up to the limits of the statutory self-insurance financial responsibility minimums as set forth in subsection 324.021(7), or \$10,000, and so ordered. The plaintiffs appeal, and we affirm.

The Graves Amendment provides that a lessor of a motor vehicle shall not be liable under the law of any state by reason of being the owner, for harm that arises out of the use of the vehicle during the lease period if the owner is engaged in the trade of renting vehicles and there is no owner negligence or criminal wrongdoing on the owner's part. The amendment provides exemptions, in that it does not supersede any state law that imposes minimum financial responsibility on

(2) imposing liability on business entities engaged in the trade or business of renting or leasing motor vehicles for failure to meet the financial responsibility or liability insurance requirements under State law.