

Supreme Court of Florida

Nos. 70,846 & 70,847

STEVEN G. RINKER, et al.,
Petitioners,

vs.

BARBARA TURNIPSEED, et al.,
Respondents.

CLARENCE JACKSON, et al.,
Petitioners,

vs.

BARBARA TURNIPSEED, et al.,
Respondents.

[November 3, 1988]

OVERTON, J.

These petitions to review Jackson v. Turnipseed, 512 So. 2d 213 (Fla. 3d DCA 1987), are based on the same certified question we recently answered in Horne v. Vic Potamkin Chevrolet, Inc., No. 70,499 (Fla. Sept. 1, 1988). We approve the decision below on the authority of our decision in Horne.

It is so ordered.

EHRlich, C.J., and McDONALD, SHAW and GRIMES, JJ., Concur
Concur
KOGAN, J., Dissents with an opinion, in which BARKETT, J., Concurs

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED.

KOGAN, J., dissenting.

As in Horne v. Vic Potamkin Chevrolet Inc., No. 70,499 (Fla. Sept. 1, 1988), I fully disagree with the rejection of the section 390 of the Restatement (Second) of Torts. While the facts in this case may not be as compelling as in Horne, I do believe that there is sufficient evidence to allow the jury to decide the issue of Turnipseed's knowledge of Rinker's inability to safely operate a motor vehicle. Accordingly, I would quash the opinion of the Third District Court of Appeal and remand this case to the trial court with directions to vacate the summary judgment against Jackson, allowing a jury to determine the issue of whether Turnipseed negligently entrusted Rinker with an automobile.

BARKETT, J., Concur

Two Consolidated Applications for Review of the Decision of
the District Court of Appeal - Certified Great Public Importance

Third District - Case Nos. 85-2534 & 85-2695
(Dade County)

Robert I. Spiegelman of Spiegelman & Spiegelman, Miami, Florida,
for Steven G. Rinker and Glenn G. Rinker; and Laura S. Rotstein
of Stanley M. Rosenblatt, P.A., Miami, Florida, for Clarence
Jackson,

Petitioners

Mitchell L. Lundeen of George, Hartz & Lundeen, P.A.,
Ft. Lauderdale, Florida, for Barbara Turnipseed; and Joe N. Unger
of the Law Offices of Joe N. Unger, P.A., Miami, Florida and
James Gilmour, Miami, Florida, for Joseph Turnipseed,

Respondents