SUPREME COURT OF FLORIDA

TALLAHASSEE, FLORIDA

Case No. 76,850

JAMES ROBERT ROOKS,

Petitioner,

vs.

SAMUEL JAMES THORPE, et al.,

Respondent.

PETITIONER'S REPLY BRIEF ON THE MERITS ON CERTIFICATION

FROM THE DISTRICT COURT OF APPEAL, THIRD DISTRICT

SHELDON J. SCHLESINGER, P.A.
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ARGUMENT

ISSUE

WHETHER, PRIOR TO THE ENACTMENT OF SECTION 324.021(9)(b), FLORIDA STATUTES (1986 SUPP.), A VEHICLE OWNER LEASING A VEHICLE UNDER A LONG-TERM LEASE WAS VICARIOUSLY LIABLE FOR THE NEGLIGENT OPERATION OF THAT VEHICLE UNDER FLORIDA'S DANGEROUS INSTRUMENTALITY DOCTRINE.

This court's recent opinion in Kraemer v. General Motors Acceptance Corporation, 15 FLW S657 (Fla. December 20, 1990),[1] is dispositive and held that the lessor under a long-term lease is liable under the dangerous instrumentality doctrine for damages resulting from negligent operation of the vehicle. Kraemer rejected the arguments advanced by GMAC in this case.

CONCLUSION

The Third District erred in concluding that the dangerous instrumentality doctrine is inapplicable to owners/lessors leasing vehicles under long-term leases where the lease and accident pre-dated § 324.021(b). The district court's decision should be

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[1] Like Kraemer, the parties here agreed the amendment to § 324.021, subsection (b), is inapplicable since the lease was executed and the accident occurred prior to the amendment.

quashed and the case remanded to the trial court for further proceedings.

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CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished, by mail, this 27th day of December, 1990, to:

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