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SUPREME COURT OF FLORIDA

TALLAHASSEE, FLORIDA

Case No. 76,850

FILED
NOV 1 1993
DEC 23 1993
CLERK OF SUPREME COURT
By: *M*

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.
1212 S.E. 3rd Avenue
Fort Lauderdale, FL 33316
(305) 467-8800
and
JANE KREUSLER-WALSH, and
LARRY KLEIN, of
KLEIN & WALSH, P.A.
501 South Flagler Drive
Suite 503 Flagler Center
West Palm Beach, FL 33401
(407) 659-5455



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<u>Issue</u> 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.	1
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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 predated § 324.021(b). The district court's decision should be

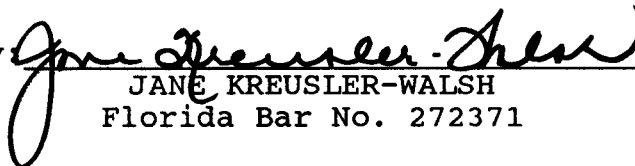
¹ Like Kraemer, the parties here agreed the amendment to § 324.021, subsection (b), is inapplicable since the lease was executed and the accident occurred prior to the amendment.

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

SHELDON J. SCHLESINGER, P.A.
1212 S.E. 3rd Avenue
Fort Lauderdale, FL 33316
(305) 467-8800

and

JANE KREUSLER-WALSH, and
LARRY KLEIN, of
KLEIN & WALSH, P.A.
501 South Flagler Drive
Suite 503 Flagler Center
West Palm Beach, FL 33401
(407) 659-5455

By: 
JANE KREUSLER-WALSH
Florida Bar No. 272371

CERTIFICATE OF SERVICE

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

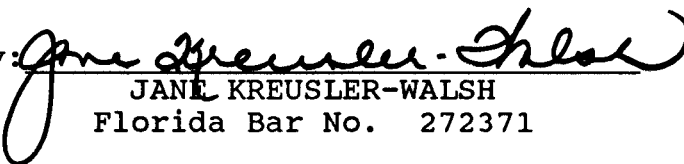
BETSY E. GALLAGHER
KUBICKI, DRAPER, et al.
Penthouse Suite
25 West Flagler Street
Miami, FL 33130

JAMES CHIMPOULIS
O'CONNOR, SINCLAIR, TUNSTALL
& LEMOS
2801 Ponce De Leon Boulevard
Suite 200
Coral Gables, FL 33134

JEFFREY B. SHAPIRO
JUDY D. SHAPIRO
HERZFELD & RUBIN
Suite 1501
801 Brickell Avenue
Miami, FL 33131

JAMES CLARK
19 West Flagler Street
Suite 1003
Miami, FL 33131

JOSE BROWN
6740 N.W. 199th Street
Miami, FL 33169

By: 
JANE KREUSLER-WALSH
Florida Bar No. 272371