

We use cookies to give you the best online experience. By using our website you agree to our use of cookies in accordance with our cookie policy. [Learn more here](#) . [Close Me](#)



[Home](#) > [USA](#) > [Litigation, Mediation & Arbitration](#)

Rumberger KIRK & CALDWELL

United States: Florida Supreme Court Rules No Vicarious Liability For Businesses That Rent Or Lease Vehicles

Last Updated: April 22 2013

Article by [Hugh D. Higgins](#)

Rumberger, Kirk & Caldwell, P.A.

Do you have
Mutual
Contacts with
the Author



A recent decision of the Florida Supreme Court shields owners of vehicles leased for one year or more from liability for harm that results from the lease of the vehicles. *Rosado v. DaimlerChrysler*, ___ So. 3d ___, 2013 WL 1338047 (Fla. Apr. 4, 2013). In *Rosado*, the Florida Supreme Court ruled that the federal Graves Amendment, which insulates businesses that rent or lease vehicles from vicarious liability for harm caused by their drivers, preempts Florida state law. By a 5-2 decision, the *Rosado* Court held "the Graves Amendment preempts liability under Florida Statutes Section 324.021(9)(b)(1)." *Rosado*, 2013 WL 1338047, at *1.

Prior to the enactment of the Graves Amendment in 2005, Florida law imposed vicarious liability on all owners of vehicles based on the dangerous instrumentality doctrine, which makes owners of vehicles liable for the negligence of their drivers. Under Section 324.021(9)(b)(1), companies that lease vehicles for a term of one year or more had the option of requiring the lessee to carry insurance of "not less than \$100,000/\$300,000 bodily injury liability and \$50,000 property damage liability or not less than \$500,000 combined property damage and bodily injury liability." If the elective insurance is obtained, the lessor is not deemed an owner under the dangerous instrumentality doctrine, and thus not vicariously liable for the lessee's negligence.

The Graves Amendment abolished vicarious liability against owners that rent or lease vehicles if the owner is engaged in the "business of renting or leasing motor vehicles; and there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner)." 49 U.S.C. §30106. The amendment contains a savings clause, designed to ensure the statute does not preempt state financial responsibility laws, which reads:

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
- (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.

49 U.S.C. §30106(b). The *Rosado* Court rejected the contention that 324.021(9)(b)(1) is a financial responsibility law. It reasoned that the statute does not "does not impose[e] financial responsibility or insurance standards on the owner of a motor vehicle for the privilege of registering and operating a motor vehicle" or impose liability on businesses that rent or lease vehicles. *Rosado*, 2013 WL 1338047, at *7. Instead, "the statute creates a process by which long-term lessors can avoid the default financial responsibility imposed upon them by Florida's dangerous instrumentality doctrine." *Id.*

In so holding, the court followed the reasoning of a prior Florida Supreme Court opinion in *Vargas v. Enterprise Leasing Co.*, 60 So. 3d 1037 (Fla. 2011). In *Vargas*, the court held the Graves Amendment preempted Section 324.021(9)(b)(2), which related to the rental and lease of vehicles for less than one year.

Nearly eight years after the enactment of the Graves Amendment, the dust has settled in Florida courts. Now there is certainty that regardless of whether a business rents or leases a vehicle for one day or over a year, it cannot be held vicariously liable

for the harm caused by its customer during the use, operation or possession of the vehicle.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Do you have a Question or Comment?
Click here to email the Author

Interested in the next Webinar on this Topic?
Click here to register your Interest

Contributor

Hugh D. Higgins

[Email Firm](#)



[More from this Firm](#)



Rumberger, Kirk & Caldwell, P.A. [View Website](#)



[More from this Author](#)



Authors

Hugh D. Higgins

[Contact Us](#) | [Your Privacy](#) | [Feedback](#)

