

DAILY BUSINESS REVIEW

December 10, 2007

FINALISTS

Innovative use of amendment saves rental company from wrongful death suits

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National Car Rental was expecting to face a standard wrongful death lawsuit over two deaths in a head-on collision on I-75.

But the company and its parent Vanguard filed a pre-emptive federal lawsuit to get an interpretation of the impact in Florida of the Federal Transportation Equity Act.

The 2005 law, also known as the Graves Amendment, eliminated liability for rental car companies except in states with minimum insurance or financial responsibility requirements.

Florida law allowed a recovery of up to \$600,000 in liability from car rental companies.

Daniel Santaniello, Paul Jones and James Waczweski of Luks Santaniello Perez Petrillo & Gold in Fort Lauderdale successfully argued for National that Florida did not meet the exceptions under the Graves Amendment.

The case grew out of the crash in Marion County in February 2005. Gregory Davis was driving to Georgia in a rented Dodge Stratus when he lost control and veered across the median. Davis smashed head on into a car driven by Jose Garcia, who died along with passenger Nelson Ruiz.

The suit filed by National Car Rental

ended up interpreting federal and state's rights and determining whether rental car companies were liable for the accidents of their customers.

The Garcia and Ruiz families were represented by Atlanta attorney Richard Summers, a sole practitioner, and Vincent D. Assaro of Morgan & Morgan in Orlando. The attorneys argued the legal dispute was one of tort and liability, which is historically under state jurisdiction.

In March, Senior U.S. District Judge W. Terrell Hodges in Ocala agreed with National, issuing a 30-page opinion that runs counter to a number of state court decisions. It effectively eliminated all liability in Florida.

"There is a lack of persuasive Florida legal authority addressing the intersection of the act and the Florida statutes," the judge wrote. "This is an important case of first impression."

Santaniello sees the decision as a sign of the times.

"In a day and age where plaintiffs actively seek deep pockets regardless of that party's fault, the decision is in line with tort reform," he said. "The trend is that responsibility for an accident should stay where it belongs – with the party responsible for the accident. Isn't that the way it should be?"

Santaniello said going on the offensive was a big reason for victory.

National took the case out of a state venue by suing in federal court for declaratory relief.

"We had a defendant waiting to be sued in a double fatality. It would take many years with the trial and the appeal. We



Santaniello



Jones

basically sued them and asked the court to dismiss," he said. "It was innovative."

The case is far from over. It is too early to say if Florida courts will treat the federal decision as binding. Some judges have agreed with the analysis, but many have ruled the other way, adding to confusion in the courts.

"This decision should be the final say in the matter at the trial court level," Santaniello said. "Hopefully state judges will respect and follow the decision and let the appellate courts handle the issue now as they are intended."

The plaintiffs appealed, and oral arguments are set in January before the 11th U.S. Circuit Court of Appeals. Santaniello expects the issue to reach the U.S. Supreme Court because so many varying opinions are coming out of states on the Graves Amendment.

"There are only a handful of commerce-clause cases over the last century. This is going to be an important decision," he said.

— John Pacenti

