

Graham v. Dunkley, —N.Y.S.2d —, 2008 WL 269527 (2d Dept. 2008)

On February 1, 2008, the Appellate Division, Second Department held that the Graves Amendment (a federal statute that declares that leasing companies shall not be held vicariously liable under any State law for damages sustained in a motor vehicle accident) was a valid exercise of Congressional power pursuant to Commerce Clause and preempted vicarious liability imposed on commercial lessors by Vehicle and Traffic Law § 388 (the New York statute which expressly provides that leasing companies, as owners, are vicariously liable for the negligence of a driver).

Further, the Court stated that the Graves Amendment has been “enforced as preempting the vicarious liability imposed on commercial lessors by Vehicle and Traffic Law § 388”, citing a number of prior Appellate Division cases. See Hernandez v. Sanchez, 40 A.D.3d 446 (1d Dept. 2007) (holding that action in which only basis for claim against defendant lessor was VTL § 388 was barred by Graves Amendment); Kuryla v. Halabi, 39 A.D.3d 485 (2d Dept. 2007) (holding that it was error to grant motion for leave to amend complaint to add appellant as defendant where cause of action sought to be asserted against appellant was interposed after effective date of the Graves Amendment); Jones v. Bill, 34 A.D.3d 741 (2d Dept. 2006) (holding that claim against newly-added defendant interposed after effective date of Graves Amendment was barred and assertion that claim against defendant was maintainable under relation-back doctrine was without merit).

In support of its decision, the Court in Graham v. Dunkley stated:

The finding that Congress had the authority, pursuant to the Commerce Clause, to enact the Graves Amendment, thereby preempting conflicting New York law, ends the analysis (see U.S. Const., art. VI, cl. 2). Should New York wish to provide protection to innocent victims of accidents with leased and rented vehicles, it may require companies to lease or rent vehicles only to drivers with insurance, set up a fund, or take some other legislative action not barred by the federal statute. However, actions against rental and leasing companies based solely on vicarious liability may no longer be maintained.

In light of the above, the Graves Amendment preempts vicarious liability imposed on commercial lessors by VTL § 388 for actions commenced on or after August 10, 2005 and, therefore, such actions against rental and leasing companies may no longer be maintained. However, it should be noted that cases examining the Graves Amendment have split over the issue of whether the Graves Amendment applies where an action was commenced prior to August 10, 2005, but the owner-lessor was added as a defendant after August 10, 2005. See Kuryla v. Halabi, 39 A.D.3d 485, 485-86, 835 N.Y.S.2d 230, 231(2d Dept. 2007) (finding Graves Amendment applicable); Jones v. Bill, 34 A.D.3d 741, 741-42, 825 N.Y.S.2d 508, 509-10 (2d Dept. 2006) (same); but see Williams v. White, 40 A.D.3d 110, 111-12, 832 N.Y.S.2d 713, 713-14 (4d Dept. 2007) (finding Graves amendment in applicable); Leuchner v. Cavanaugh, 42 A.D.3d 893, 837 N.Y.S.2d 887, 887 (4d Dept. 2007) (same).