

Play At The Plate

Owner Tagged With Lawsuit

Part of the art of practicing law is the ability, when appropriate, to be creative in applying established legal doctrines to a given set of facts. However, sometimes no legal basis exists to hold a person or entity responsible for an occurrence.

A recent example of the unsuccessful effort to fit a round peg of facts into a square hole of law was *Robb vs. Wancowicz*, decided on February 3, 1998 by the Court of Special Appeals of Maryland.

According to the court, Carol Lunner owned a 1976 Chevrolet Malibu which she inherited from her mother. After Lunner parked the Malibu in her apartment complex, an acquaintance removed the license plates without permission. Lunner became concerned that the plateless car would be towed away and asked her father, Peter Wancowicz, to help her move the car to his residence. Wancowicz had an expired set of Maryland license plates that had been issued

for a vehicle that his son inherited from Wancowicz's father.

Wancowicz's son had retitled that car in his own name and had obtained new plates but had not returned the old plates to the Motor Vehicle Administration. Wancowicz took the expired plates to Lunner's lot, affixed them to her Malibu, and drove the car to his house. In January 1995, Lunner moved in with Wancowicz.

Lunner had a history of negligent driving, about which her father was aware. On February 2, 1995, Lunner drove her Malibu across the center line of Jarettsville Pike, in Baltimore County, and collided head-on with a vehicle driven by Richard Robb, Jr. Robb and Lunner both suffered serious personal injuries. Lunner acknowledged that she was speeding right before the impact.

Robb sued Lunner for negligence. Lunner did not answer and defaulted. Robb then amended his complaint, adding Wancowicz as a defendant and alleging "negligent entrustment," negligence, and civil conspiracy claims against him.

Wancowicz moved for summary judgment (seeking dismissal of the claims). The court granted summary judgment in favor of Wancowicz on all counts. (It also entered judgment for Robb against Lunner for \$719,668.95, plus costs.) Robb appealed.

Robb alleged that Wancowicz negligently entrusted to Lunner the expired license plates that had been issued for

another vehicle, thereby facilitating her operation of her Malibu automobile, "a potentially dangerous instrumentality if operated in a negligent and unsafe manner." The trial court ruled that the evidence could not support such a claim.


The appellate court agreed. It noted that Maryland law adopted the doctrine of negligent entrustment, which provides: "One who supplies directly or through a third person a chattel (property) for use of another whom the supplier knows or has reason to know to be likely because of his youth, inexperience, or otherwise, to use it in a manner involving unreasonable risk of physical harm to himself and others whom the supplier should expect to share in or be endangered by its use, is subject to liability for physical harm resulting to them."

The court stated: "As the trial court observed, and as is undisputed, the license plates that Robb contends Wancowicz negligently entrusted to Lunner were simply pieces of metal that were not inherently dangerous instru-

mentalities and did not cause any harm themselves...At the times relevant to Robb's claims against Wancowicz, Lunner was an adult (in her early 30s) who held a valid driver's license. Wancowicz had no legal right to exercise control over Lunner. Lunner owned the Chevrolet Malibu that she was driving when she collided with Robb's vehicle. Wancowicz could not control Lunner's access to her car, whether she drove the car, or whether she drove the car carefully. Moreover, Wancowicz had no legal right to control Lunner's use of the expired plates (which belonged to neither one of them) after he affixed them to her car..."

"Even if the Malibu were the only vehicle to which Lunner had access (a point on which Robb offered no proof), it is clear that Lunner did not need the expired license plates that Wancowicz affixed to the Malibu to be able to drive that car at all or to be able to drive it without the risk of being stopped by the police for not having license plates. Obviously, the license plates were not mechanically necessary to the operation

of the car. More to the point, when the license plates issued for the Malibu were stolen, Lunner was entitled (and indeed was required) to affix to the car a temporary plate bearing the vehicle's registration number...She could have used a temporary plate for the Malibu until she obtained replacement license plates...Wancowicz does not bear any legal responsibility for the use that Lunner made of the expired license plates or of her Chevrolet Malibu."

Next month we will examine the appellate court's analysis of Robb's negligence and conspiracy claims. 

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