



# Weekly Law Resume

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Edited by David Blinn and Mark Hazelwood



WEEKLY LAW RESUME™

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September 23, 2010

## Duty of Care - Rental Car Company

*Jesus Flores, et al. v. Enterprise Rent-A-Car Company, et al.*  
Court of Appeal, Second District (September 22, 2010)

In this case, the court considered whether rental car companies have a duty to use electronic driver's license checks to screen their clients' driving records before entrusting a vehicle to them.

Jesus and Concepcion Flores' son died after being struck by a vehicle driven by Alexander Dederer, a customer of Enterprise Rent-A-Car. Flores sued for wrongful death and negligent entrustment of the vehicle. They contended an electronic check of Dederer's driver's record would have revealed two arrests for driving under the influence within the previous 48 months. They contended the failure to perform that check breached the duty of care. Enterprise filed a motion for summary adjudication of the negligent entrustment cause of action. It conceded liability under the statutory ownership provision of Vehicle Code § 17150. The trial court found that Dederer was fit at the time he rented the vehicle, that Enterprise had satisfied its duty to determine Dederer had a valid license, and since Dederer's carrier had paid \$15,000, the maximum liability amount for ownership liability, Enterprise was entitled to summary judgment. Flores appealed.

The Court of Appeal affirmed. Plaintiffs contended that many rental car companies routinely use electronic driver history checks to check the background of renters. In *Osborn v. Hertz Corp.* (1988) 205 Cal.App.3d 703, it was held that all that was required of rental car companies was to inspect the driver's license presented at the time of rental to make sure it was valid. This Court stated that as a result, a rental car company is not obligated to use an electronic driver's history service to check DMV records for information. The Court further noted that a past history of a conviction for drunk driving or for having one's license suspended is not grounds for refusing to rent a car. As long as a renter has a valid driver's license, a rental car

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company is allowed to rent the vehicle. The Court refused to impose an additional duty on Enterprise to electronically check a prospective driver's history to screen for a prior impaired driving conviction or license suspension before renting a vehicle.

Since the Osborn case, the Legislature has provided that it is sufficient for rental car companies to examine a renter's driver's license and compare the signature on the license to the one written by the prospective renter in the presence of a rental agent. Further, the Supreme Court has held that the inspection of a driver's license to determine its validity is all that is required of rental car companies. The Court expressed concern about requiring rental car companies to perform additional license checks with the DMV. Because the Legislature had not seen fit to require such an inspection, the Court felt it was improper to judicially impose such a standard. Thus, there was no legal duty to make such an inspection, and there was no negligent entrustment on the part of Enterprise. Since the driver had satisfied the maximum amount of owner liability, Enterprise was discharged from any further liability. The judgment entered in favor of Enterprise was therefore affirmed.

## COMMENT

This case refused to impose additional duties on rental car companies to check the status of the license of renters beyond that already imposed by court decisions and statute. While mindful that such searches might make the roads safer, the Court felt the Legislature had struck a balance between that danger and the necessity for rental car companies to be able to operate their business.

For a copy of the complete decision see:

[HTTP://WWW.COURTINFO.CA.GOV/OPINIONS/DOCUMENTS/B215105.PDF](http://www.courtinfo.ca.gov/opinions/documents/B215105.pdf)

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