

APPELLANT NUMBER

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NO. A05-1038

FILED

State of Minnesota  
In Supreme Court

Ted Harrison, Jr., a minor, by  
 Audrey Harrison, his guardian ad litem,

*Respondent,*

v.

Amy and Ted Harrison, Sr.,

*Appellants.*

**BRIEF OF AMICUS CURIAE  
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## STATEMENT OF INTEREST

The Minnesota Trial Lawyers Association (“MTLA”) was founded in 1954 by a group of Minnesota attorneys who primarily represented injured individuals.<sup>1</sup> Over time, MTLA expanded beyond that original association and at present, the MTLA membership includes attorneys who work predominately in the area of plaintiff’s employment, workers’ compensation, family and commercial law, as well as personal injury. The mission of the MTLA includes applying “its knowledge and experience in the field of law to the promotion of public good; to encourage fellowship among the members of the bar; and especially, to advance the cause of those who are damaged in person, property or civil rights and who must seek redress therefore at law; to help injured persons; ...and generally, to encourage scholarship and increase proficiency among members of the bar in our Association.” (MTLA Mission Statement, [www.mntla.org/mission.htm](http://www.mntla.org/mission.htm)) The MTLA urges this Court to uphold the decision of the court of appeals in *Harrison v. Harrison*, 713 N.W.2d 74 (Minn.Ct.App.2006).

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<sup>1</sup> This brief was authored in whole by undersigned counsel for Amicus MTLA, and no other persons or entities other than the MTLA made a monetary contribution to the preparation or submission of the brief. This disclosure is made pursuant to Minn. R. Civ. App. P 129.03.

## STATEMENT OF THE CASE AND FACTS

Amicus MTLA agrees with the Statement of the Case and Facts set forth in the Brief and Appendix of Respondent Ted Harrison, Jr., a minor, by Audrey Harrison, his Guardian Ad Litem. (Respondents' Brief, pp. 2-7).

## ANALYSIS

### **RESPONDENTS' CLAIM THAT THE CHILD PASSENGER RESTRAINT SYSTEM WAS DEFECTIVELY INSTALLED, RESULTING IN TEDDY HARRISON SUSTAINING SERIOUS PERSONAL INJURIES FALLS DIRECTLY WITHIN THE MINN. STAT. § 169.685, SUBD. 4(b) EXCEPTION FROM THE SEATBELT GAG RULE.**

#### **A. Standard of Review.**

A question regarding the construction of statutory provisions is a question of law, subject to *de novo* review by this Court. *Minnesota Citizens Concerned for Life, Inc. v. Kelley*, 698 N.W.2d 424, 427 (Minn.2005).

#### **B. Minn. Stat. § 169.685, Subd. 4(b), the Exception to the Seatbelt Gag Rule, Permits a Claim to be Made Against a Child's Parents for Defective Installation of a Child Passenger Restraint System.**

Prior to the enactment of the 1999 amendment to Minn. Stat. § 169.685, the prohibition against admission into evidence of any information regarding proof of the use or non-use of a seatbelt or child passenger restraint system, or proof of the installation or failure of installation of a seatbelt or child passenger restraint system, was absolute in litigation involving personal injuries. The seatbelt gag rule barred with equal fervor, a claim where it was alleged the seatbelt or child

passenger restraint system failed or was otherwise defective, subjecting the occupant to greater injury, as well as a claim where the occupant failed to even use a seatbelt or child passenger restraint system and sustained personal injury. The result was an entire class of individuals who sustained serious personal injuries in motor vehicle collisions in Minnesota being prevented from seeking full redress and compensation for their injuries.

Following this Court's decision in *Olson v. Ford Motor Co.*, 558 N.W.2d 491 (Minn. 1997) the legislature worked to draft and pass language to ensure that claims involving a defect in the design, manufacture, and installation of a seatbelt or child passenger restraint system would be excluded from the general seatbelt gag rule. In *Olson* this Court held the seatbelt gag rule prohibited a claim alleging a seatbelt failed materially contributing to the occupant's injuries.

Respondents address issues of statutory construction in their brief. (Respondents' Brief, pp. 8-12). It is well settled that every law should be construed to give effect to all its provisions and that it is presumed the legislature intends for an entire statute to be effective and certain. *Kalin v. Oliver Iron Min Co.*, 228 Minn. 328, 330, 37 N.W.2d 365, 366 (1949).

C. A Claim Under Minn. Stat. § 169.685, Subd. 4(b), Regarding a “Defectively Installed” Child Passenger Restraint System can be Brought Against any Individual who Installs a Child Passenger Restraint System.

Amicus MDLA urges the Court to adopt a narrow interpretation of Minn. Stat. § 169.685, subd. 4(b), suggesting that that no one outside a factory can “install” a child passenger restraint system. (MDLA Brief, p. 8). Respondents’ in their brief sufficiently address the proposed narrow interpretation of the exception to the seatbelt gag rule. Primarily, Amicus MDLA confuses the act of installing a child passenger restraint system in a vehicle with the act of using a child passenger restraint system. Installation involves securing the restraint system in the vehicle. Use involves placing the child into the already installed restraint system. The entire discussion will not be rehashed here, but Amicus MTLA urges the Court to reject Amicus MDLA’s argument on this point as adopting such a narrow interpretation would not only render the statute ineffective, but would ignore the real world situation that child passenger restraint systems are not installed in a factory by a manufacturer, but are instead installed each and every day by thousands of Minnesota parents, child care providers, and other individuals charged with the health and safety of our children. If the narrow interpretation demanded by Amicus MDLA is adopted a large number of the most vulnerable and dependent members of our society, young children, will be prevented from seeking full redress and compensation for personal injuries received as a result of a

defectively installed child passenger safety restraint system. None of the materials before the Court suggest or prove that such is the intended result of the adoption of the exception to the seatbelt gag rule.

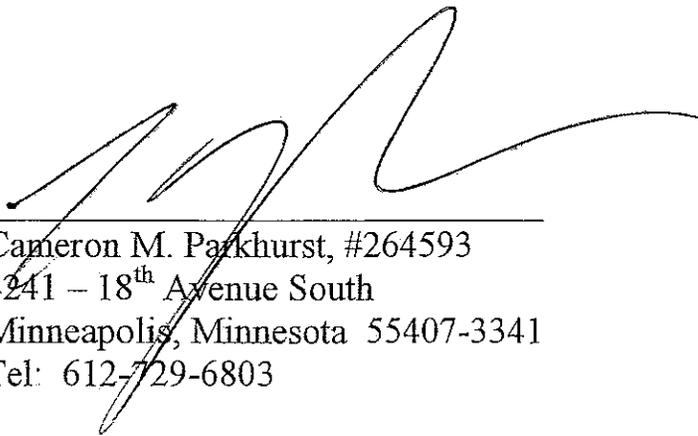
**D. The Stipulation Between the Parties Regarding the Facts Upon Which the Initial Cross-Motions for Summary Judgment Were Made States Appellants' Installation of the Child Passenger Restraint System was Negligent.**

When parties stipulate to facts and damages, it is the duty of this Court to determine whether the court of appeals erred in its application of the law to the facts of the case. *McClain v. Begley*, 465 N.W.2d 680, 682 (Minn. 1991). It is undisputed this matter came before the district court and Court of Appeals on a set of stipulated facts. (Appellants' Appendix, pp. 19-22). That stipulation remains the only factual record before the Court. Without question the Court will apply the law to the set of stipulated facts, but should not simply disregard the stipulation entered into by the parties as it is the foundation from which the arguments in this matter flow and are the facts applied to the interpretations of the laws in question. It is undisputed the parties stipulated that Appellants were negligent in the installation of the child passenger restraint system. As such, the installation was defective.

CONCLUSION

Amicus MTLA, respectfully requests that the trial court's judgment and the Court of Appeals' affirmance be affirmed.

Dated: September 22, 2006



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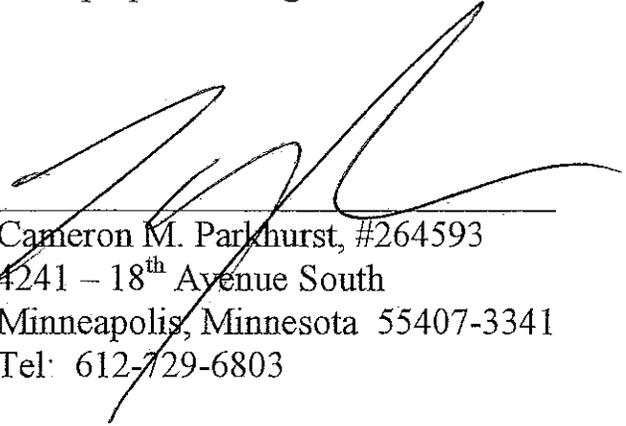
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**CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief conforms to the requirements of Minn. R. Civ. App. P. 132.01, subds. 1 and 3, for a brief produced with a proportional font. The length of this brief is 1,183 words. This brief was prepared using Microsoft Office Word 2003.

Dated: September 22, 2006



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