

***State of California ex rel. Department of Transportation v. Herc Rentals, Inc. (2026
DJDA 8216)***

The *Savage* rule, which absolves a shipper of liability, does not apply where a third party, rather than the carrier, brings a negligence claim against the shipper.

FACTS/PROCEDURAL HISTORY

On June 1, 2020, California Interstate Express, Ltd. (CIE) driver Camacho arrived at Herc Rentals to pick up a JLG 800A boom lift for transport to a buyer. Herc employees loaded the lift onto CIE's flatbed trailer with its arm extended. Camacho, as the driver, knew he was responsible for measuring the load but did not do so because he did not have a measuring tape with him that day. The top of the 15-foot, 6-inch load struck an overcrossing bridge with 15 feet, 1 inch of clearance, damaging the bridge.

The State of California, through the Department of Transportation (Caltrans), sued the carrier CIE and Camacho for negligence and highway damage and later added Herc after CIE and Camacho filed a cross-complaint for implied and equitable indemnity, equitable apportionment of fault, and contribution. Herc also filed a cross-complaint against CIE and Camacho. Herc moved for summary judgment, arguing that the Federal Motor Carrier Safety Regulations (FMCSR), Vehicle Code section 35250, and *United States v. Savage Truck Line, Inc.* (4th Cir. 1953) 209 F.2d 442 placed responsibility for safe loading on the carrier. The trial court granted the summary judgment for Herc. The State appealed.

HOLDING/DISCUSSION

The California Court of Appeal for the First Appellate District reversed. The Court addressed whether Herc could avoid liability to the State based on duties imposed on the carrier and driver. Civil Code section 1714 establishes a general duty to exercise ordinary care, and exceptions require statutory or public-policy justification. (*Rowland v. Christian* (1968) 69 Cal.2d 108, 112–113; *Cabral v. Ralphs Grocery Co.* (2011) 51 Cal.4th 764, 772–773.)

The Court held that *Savage* did not bar the State's claim. *Savage* allocates responsibility between a shipper and carrier: when a shipper loads cargo, it is generally responsible for latent defects, while the carrier remains responsible for defects apparent by ordinary observation. (*United States v. Savage Truck Line, Inc.* (4th Cir. 1953) 209 F.2d 442, 445.) But the State was a third party, not the carrier. Because *Savage* concerns the shipper-carrier relationship, its rule did not absolve Herc of liability to an injured third party with no connection to the trucking industry. California authority likewise recognizes that negligent loading may support liability to a third party even where the driver is independently negligent. (*Pedferri v. Seidner Enterprises* (2013) 216 Cal.App.4th 359, 367–368.) The court therefore did not need to decide whether the excessive height was a latent or patent defect.

The Court also rejected Herc's reliance on the FMCSR and Vehicle Code section 35250. The FMCSR requires a commercial driver to ensure cargo is properly distributed and secured and to inspect the cargo and securing devices. (49 C.F.R. § 392.9(a)(1), (b)(1).) Vehicle Code section 35250 regulates vehicle and load height. Those provisions impose duties on carriers and drivers, but do not eliminate a shipper's common-law duty under Civil Code section 1714. The carrier's separate duties may affect comparative fault, but they do not create a no-duty rule for the shipper.

Accordingly, neither *Savage* nor the carrier-focused statutes and regulations entitled Herc to summary judgment on the ground that it owed the State no duty. The judgment was reversed.