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Friends Irina Reinoso and Mila Dago were out on a hot August night in 2013, using the car-sharing service Car2Go to bar hop, visiting the Electric Pickle and Blackbird Ordinary.

At 4 a.m., police say Dago, then 22, ran a red light in the Smart Car on Biscayne Boulevard and smashed into a pickup truck. Reinoso died at the scene. Dago now faces a drunken-driving manslaughter charge, and the victim's family has filed a wrongful death suit.

The lawsuit claims the Austin, Texas-based Car2Go, unlike rental car companies, is not protected from vicarious liability under a federal law passed by Congress in 2005.

The pockets are deep. Car2Go is a subsidiary of Germany's Daimler AG, which manufactures Mercedes-Benz and other vehicles. Three of the four counts are against Car2Go.

The complaint states Car2Go "should have known defendant Dago would use the vehicles, including the subject vehicle, in a manner involving unreasonable risk of physical harm to herself and others."

The affirmative answers to the lawsuit so far are brief. Car2Go and Dago claim the victim failed to use the seat belt, and the accident was caused by a third party.

Graves Amendment

The Reinoso family retained Podhurst Orseck partner Ricardo Martinez-Cid to represent them in the lawsuit. The Miami lawyer said Car2Go intends to use the 2005 Graves Amendment passed by Congress that immunizes rental car agencies from liability for the acts of rental drivers.

Martinez-Cid said Car2Go advertises itself as an alternative to renting a car or taking a taxi.

"Car2Go has taken great pains to distinguish itself from rental car companies," he said. "They call themselves a car-sharing membership, but they are trying to hide behind a law that protects rental cars companies from being held vicariously liable for their drivers."

Car2Go, which expanded to its 15th city in July, operates a fleet of two-seater Smart Cars on the scale of a golf cart. The car-sharing service sells memberships allowing customers to pick up cars parked on the street and drive them, usually for short distances and short durations. The driver then leaves the tiny car in nonrestricted parking or a designated Car2Go garage.

Unlike a rental car agency, there is no staffer able to gauge whether a new driver is sober. Car2Go members sign an agreement stipulating they will not use the vehicles while intoxicated.

Photos from the crash scene showed the front of the car was basically sheered off.

Car2Go is represented by attorney David Cooney, a partner with Cooney Trybus Kwavnick Peets in Fort Lauderdale. He was in trial and could not be reached for comment by deadline. A company spokesman also did not return a call for comment.

Dago is represented by Hollywood attorney Mark W. Burton with the Law Offices of Hugh Behan. He said he had no comment on the pending litigation.

Martinez-Cid said he is asking Judge Antonio Arzola to compel Car2Go to hand over information about who uses the service and when.

"These car-sharing services are used primarily I think by a lot of these young folks who go at night," Martinez-Cid said. "If you are going to allow cars to be shared in the wee hours of the morning, they need to invest in a Breathalyzer."

The Graves Amendment, passed as part of Transportation Equity Act of 2005, has bedeviled the plaintiffs' bar representing injured parties in car accidents involving rental vehicles.

Attorney Ira Leesfield, a partner at Leesfield & Partners in Miami, has been rallying against the Graves Amendment since before it was passed. He said it was supported by lawmakers beholden to the rental car industry through campaign donations.

"I think it's an interesting legal battle. It's all driven by dollars," he said. "I think Car2Go will try to use the Graves Amendment and maybe use it successfully. It will be a close call."

Read more: <http://www.dailybusinessreview.com/id=1202671870039/Suit-Tests-Cars2Go-Immunity-After-Car-Crash-Kills-BarHopping-Young-Woman#ixzz3F1O3pXaM>