

# MARKS & WEINBERG, P.C.

## **Rosen v. Primus Automotive Financial Services, Inc.**

618 N.W.2d 606 (Minn. Ct. App. Nov. 7, 2000)

CHARACTERIZATION OF DEPOSIT SECURING AN AUTOMOBILE LEASE 6  
Plaintiff lessee brought action against the lessor of an automobile for failure to reimburse any increase in or profit on the security deposit as required by section 9-207 of the Uniform Commercial Code. Minnesota law reflects the rule of the UCC which states that a lessor may hold as additional security any increase or profits received from the collateral, but that such proceeds will either be returned or applied to the secured obligation.

In contrast to this rule, the defendant cites to State v. Larsen, 605 N.W.2d 706, 712 (Minn. 2000), wherein the Minnesota Supreme Court held that an automobile dealer's receipt of a security deposit for a commercial leasing transaction creates a debtor-creditor relationship between the dealer and consumer. Analyzing landlord-tenant law to determine the proper treatment of such security deposits, the court found that the earlier holding of the Minnesota Supreme Court was consistent with the majority rule regarding such deposits.

As such, since there was no language to the contrary embodied in the lease agreement, the court characterized the security deposit as creating a debtor-creditor relationship.



Based on this holding, the court ruled against the plaintiff and remanded the case for entrance of summary judgment in favor of the defendant.

Marks & Weinberg, PC is a law firm with significant experience in dealing with virtually every type of equipment and facility lease financing. The lawyers of the firm have participated in leasing financings for more than a billion dollars of equipment and are recognized throughout the industry. If you would like more cases or articles on leasing, or have any questions or comments about this Article or other leasing issues, please visit [leaselawyer.com](http://leaselawyer.com) or contact Barry Marks at 205.251.8303 or Ken Weinberg at 205.251.8307.

