BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MICHAEL WOOD, Claimant, vs. JMJ EQUIPMENT TRANSPORT, INC., Employer, and ELOLE INSURANCE COMPANY, Insurance Carrier, Defendants.	File No. 5063827 RULING ON INTERLOCUTORY APPEAL Head Note: 2303

STATEMENT OF THE CASE

Defendants JMJ Equipment Transport, Inc. (JMJ), employer and Elole Insurance Company, insurer, both as defendants, appealed a ruling, filed in this matter on May 31, 2019.

Defendants' motion for interlocutory appeal was granted on December 17, 2019.

The evidentiary record in this matter consists of Claimant's Exhibits 1-17, Defendants' Exhibits A through B, and Defendants' Response to Claimant's Exhibit 17. Claimant, Michael Wood, and Jason Jones, JMJ's owner, testified via video conference.

The detailed arguments of the parties have been considered and a review of the evidence has been reviewed de novo.

ISSUES

The issue on interlocutory appeal is whether the Iowa Workers' Compensation Commissioner may exercise personal jurisdiction over defendants in this matter under Iowa Code section 85.3(2).

FINDINGS OF FACT

Claimant was employed by JMJ as a semi-truck driver. As a driver for JMJ, claimant moved farm equipment, truck chassis, garbage bodies, and other large

equipment across country. (Hearing Transcript, pages 18-19) When in Iowa claimant picked up loads consisting of tractors and other equipment from John Deere and J I Case in Waterloo, Davenport, and Dubuque. (Tr. p. 24)

On September 12, 2016, claimant was traveling in his truck to a John Deere plant in Dubuque, Iowa, to pick up a load for JMJ. Claimant had a motor vehicle accident on his way to the Dubuque plant. (Tr. pp. 26-28; Ex. A, deposition pp. 14-15)

The accident occurred within the Dubuque city limits. (Tr. p. 28) Before the accident, claimant had spent the weekend in Davenport, after delivering a load in Illinois. (Tr. pp. 26-27)

After the accident, claimant was transported to Mercy Hospital in Dubuque. He was eventually flown to the University of Iowa Hospitals and Clinics (UIHC), in Iowa City for further care. (Tr. p. 29) Claimant was inpatient at the UIHC for approximately three weeks. (Tr. p. 30; Ex. A, deposition p. 17)

After he was released from UIHC, claimant returned to Arizona. Claimant is a resident of Arizona. All medical care after claimant's stay at UIHC has been in Arizona. (Tr. p. 41) Claimant has a claim for workers' compensation benefits in Arizona and has been receiving benefits. (Tr. pp. 43-44)

JMJ is headquartered and incorporated in Arizona. (Tr. pp. 61, 63) JMJ's bank accounts are in Arizona. (Tr. p. 63) JMJ has never had a physical office in Iowa. (Tr. pp. 62-63) JMJ has no contracts with customers located in Iowa. (Tr. pp. 62-63)

JMJ is a regional and long-distance trucking company. This requires the company to travel through Iowa. (Tr. p. 67)

Between March 2014 and March 2016, JMJ truckers traveled more than 200,000 miles in Iowa. (Ex. 1) This was due, in part, to many of JMJ's deliveries in Minnesota and other states surrounding Iowa. (Ex. 3, p. 45; Ex. 17; Tr. pp. 21-22)

JMJ's employees made numerous stops in Iowa for fuel, food, and other items. This resulted in thousands of dollars being spent by JMJ in Iowa every year. (Ex. 5, pp. 66-71, 73-82) JMJ's drivers, when in Iowa, are bound by Iowa traffic laws. Claimant and other JMJ drivers have been cited by the Iowa Department of Transportation (DOT), while driving within Iowa. (Ex. 7-9) JMJ drivers use Iowa weigh stations. JMJ has received permits from the Iowa DOT for oversize or overweight loads. (Ex. 10; Tr. p. 25) Claimant testified that of all the trips he made into the Midwest, 75 percent were through Iowa. (Tr. p. 26)

When JMJ drivers deliver loads in the Midwest, they pick up return loads in Iowa. (Tr. pp. 23-24) While JMJ does not have customers in Iowa, they do pick up return loads in Iowa. (Tr. pp. 72-73) JMJ drivers also pick up "broker" loads in Iowa to deliver or on return trips to Arizona. JMJ does not actually get paid by Iowa-based customers.

JMJ does receive payment from other customers for making pick-ups and deliveries in Iowa. (Tr. pp. 72-73, 104-105)

From September of 2014 through September of 2016, JMJ had 263 pick-ups or deliveries in Iowa. (Ex. 17) One hundred seventeen of these Iowa pick-ups were at the John Deere Plant in Waterloo, Iowa. (Ex. 17) JMJ had 28 different drivers who picked up and delivered loads in Iowa. (Ex. 2; Ex. 4; Ex. 17; Tr. pp. 51-59)

CONCLUSIONS OF LAW

The only issue to be determined in this matter is whether the Iowa Workers' Compensation Commissioner can exercise personal jurisdiction over defendants in this matter under Iowa Code section 85.3(2).

Iowa Code section 85.3(2) states:

> Any employer who is a nonresident of this state, for whom services are performed within this state by any employee, is deemed to be doing business in this state by virtue of having such services performed and the employer and employee shall be subject to the jurisdiction of the workers' compensation commissioner and to all of the provisions of this chapter . . . as to any and all personal injuries sustained by the employee arising out of and in the course of such employment within this state. In addition, every corporation, individual, personal representative, partnership, or association that has the necessary minimum contact with this state shall be subject to the jurisdiction of the workers' compensation commissioner, and the workers' compensation commissioner shall hold such corporation, individual, personal representative, partnership, or association amenable to suit in this state in every case not contrary to the provisions of the Constitution of the United States.

Iowa Code section 85.3(2) (2016).

In Covia v. Robinson, 507 N.W.2d 411 (1993), the Iowa Supreme Court discussed the applicability of Iowa Code section 85.3. The court noted that Iowa Code section 85.3(2) is essentially a long-arm statute that specially authorizes the exercise of in personam jurisdiction by the Iowa Industrial Commissioner over nonresident defendants. Covia v. Robinson, 507 N.W.2d 411, 413 (1993) (citation omitted).

The court in Covia indicated that in analyzing the application of the long-arm statute, a two-criteria step process must be applied. First, it must be decided whether the exercise of personal jurisdiction is authorized by Iowa Code section 85.3(2). Id. (citation omitted). Second, it must be decided whether the exercise of personal jurisdiction is constitutional under the due process clause of the Fourteenth Amendment of the United States Constitution. Id. (citation omitted).

Regarding the first step, section 85.3(2) authorized jurisdiction over employers, ". . . for whom services are performed [in Iowa] by any employee." Iowa Code section 85.3(2). The language "any employee" was added by the legislature in 2000 to make it clear that "a non-resident employer who has services performed by any employee in the state is deemed to be doing business in the state and is therefore subject to the jurisdiction of the workers' compensation commissioner." Iowa Acts 2000 (78 G.A.) CH. 1007, section 1; Iowa S.F. 2373, 78th G.A.

In this case, claimant was an employee of JMJ. The record is clear claimant was performing services for JMJ in Iowa. (Tr. pp. 24, 26-28) Given this record, the exercise of personal jurisdiction is authorized by Iowa Code section 85.3(2).

The next question to be determined is whether JMJ has sufficient minimum contacts to make this agency's exercise of personal jurisdiction proper. Covia, 507 N.W.2d at 415; Shams v. Hassan, 829 N.W.2d 848, 854-55 (Iowa 2013); Capital Promotions, LLC v. Don King Productions, Inc., 756 N.W.2d 828, 833 (Iowa 2008).

There are two categories of cases in which the defendants' contacts with the forum state are sufficient to make the exercise of personal jurisdiction over them proper. Shams, 829 N.W.2d at 855. These two categories are known as "general jurisdiction" and "specific jurisdiction." Capital Promotions, 756 N.W.2d at 833. General jurisdiction arises out of "continuous and systematic contacts with the forum state such that they should anticipate defending the suit in the state even when the suit is unrelated to their contacts with the forum state." Shams, 829 N.W.2d at 855.

Specific jurisdiction arises "even when the defendant's contacts with the forum state are limited, as long as the controversy is related to or arises out of a defendant's contacts with the forum." Id. (internal quotations and citations omitted). In the case of specific jurisdiction, "[a] single contact with the forum state can be sufficient to satisfy due process concerns when the plaintiff's claim arises out of the contact." Id. (citation omitted). The focus in specific jurisdiction is the relationship among the defendant, the litigation, and the forum. As the Iowa Supreme Court noted in Shams, due process is concerned with "'the defendant's connection with the litigation in the forum state, not the defendant's connection with residents in that state.'" Id. (citation omitted).

The Iowa Supreme Court has adopted a two-criteria test consistent with the United States Supreme Court to evaluate whether the exercise of specific jurisdiction is appropriate. Capital Promotions, 756 N.W.2d at 834; see Shams, 829 N.W.2d at 856. Those two criteria are "(1) whether the defendant has purposefully directed his activities at residents of the forum and (2) whether the litigation results from alleged injuries that arise out of or relate to those activities." Shams, 829 N.W.2d at 856; Capital Promotions, 756 N.W.2d at 834 (citing Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472-73 (1985)).

The United States Supreme Court expounded on this test in Burger King Corporation v. Rudzewicz:

> We have noted several reasons why a forum legitimately may exercise personal jurisdiction over a nonresident who "purposefully directs" his activities toward forum residents.... [W]here individuals 'purposefully derive benefit' from their interstate activities, it may well be unfair to allow them to escape having to account in other States for consequences that arise proximately from such activities.

471 U.S. at 473. The Court also provided that specific jurisdiction is appropriate because "parties who 'reach out beyond one state and create continuing relationships and obligations with citizens of another state' are subject to regulation and sanctions in the other State for the consequences of their activities." Id. (citation omitted).

Ultimately, jurisdiction is proper "where the contacts proximately result from actions by the defendant himself that create a 'substantial connection' with the forum State." Id. at 475. When a defendant "'deliberately' has engaged in significant activities within a State or has created 'continuing obligations' between himself and residents of the forum, he manifestly has availed himself of the privilege of conducting business there," and in turn "it is presumptively not unreasonable to require him to submit to the burdens of litigation in that forum as well." Id. at 475-76.

Regarding the first criteria, the question is whether JMJ "purposefully directed" its actions at residents in Iowa.

As detailed above, between September 2014 to September 2016, JMJ drivers drove over 260 deliveries or pick ups in Iowa. (Ex. 17) These loads were often agricultural equipment sold by businesses and dealers in Iowa, to customers in other states. JMJ derived a monetary benefit from making pick ups and deliveries in Iowa.

JMJ's activities in Iowa were also deliberate, purposeful, and significant. After delivering loads in Iowa and the Midwest, JMJ drivers looked to pick up loads in Iowa to deliver back to Arizona. Twenty-eight different drivers made more than 260 pick ups and deliveries in Iowa between 2014 and 2016. JMJ drivers also drove through Iowa on the way to other states. Between 2014 and 2016, JMJ drivers logged more than 200,000 miles through Iowa. This resulted in thousands of dollars spent at Iowa gas stations, thousands of hours of use of Iowa roads, and involvement with the Iowa DOT. Such contacts would have led a reasonable entity to anticipate potential involvement with the State of Iowa's legal processes and procedures.

Motor vehicle crashes that occur within a state also tax its policing resources. Crashes may also tax healthcare and personal service resources as well. Given the routine nature of the road where accidents happen, JMJ could reasonably anticipate

that its employees might incur a motor vehicle accident within the state of Iowa, and those accidents might well be a source of legal action within the state of Iowa.

Given this record, it is found JMJ purposefully directed its actions at Iowa, meeting the first prong of the two-prong test under Burger King.

The second part of the two-prong test under Burger King is whether the litigation at issue may result in injuries that arise out of or are related to the activities of the employer. See Shams, 829 N.W.2d 856 (citations omitted); Capital Promotions, 756 N.W.2d at 834 (citing Burger King, 471 U.S. at 472-73).

The litigation in this matter arose from claimant's injuries in a motor vehicle accident. This directly involved JMJ's activities in Iowa. Claimant was on his way from Davenport to Dubuque for a pick up, at the direction of JMJ, to John Deere in Dubuque. Given this record, the second criteria under Burger King is met.

Because both criteria for specific jurisdiction, under Burger King, are established, it is found JMJ had sufficient minimum contacts in Iowa to make the Iowa Workers' Compensation Commissioner's exercise of specific personal jurisdiction proper.

As it has been found that sufficient minimum contacts exist, it must also be determined whether the assertion of personal jurisdiction comports with fair play and substantial justice. Capital Promotions, 756 N.W.2d at 834. In making this consideration, several factors must be considered. These include: 1) The burden on the defendant; 2) the forum state's interest in adjudicating the dispute; 3) the plaintiff's interest in obtaining convenient and effective relief; 4) the interstate judicial system's interest in obtaining the most efficient resolution of controversies; 5) shared interests of several states in furthering fundamental subtenant social policies. Shams, 829 N.W.2d at 857.

The record indicates the owner of JMJ, Mr. Jones, testified it would be burdensome for him to travel to Iowa for a hearing on the merits of claimant's case. (Tr. pp. 78-79) This does not appear to be a problem in this case, as both Mr. Jones and claimant testified via video conferencing. Given this record, this is not a significant burden for defendants.

It is recognized claimant has already pursued a workers' compensation claim in Arizona and received some benefits in that claim. However, that is not the issue in this ruling.

Claimant was an employee of JMJ. Claimant was performing services for JMJ in Iowa. Claimant was injured in a motor vehicle accident in Iowa. Between 2014 and 2016, 28 different JMJ drivers made over 260 deliveries and pick-ups in Iowa. JMJ derived a monetary benefit from making pick-ups and deliveries in Iowa. Between 2014 and 2016 JMJ truckers drove over 200,000 miles in Iowa. JMJ spend thousands of dollars in Iowa. JMJ drivers spent thousands of hours driving in Iowa. Given these

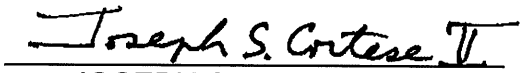
facts, and the others as detailed above, it is found the Iowa Workers' Compensation Commissioner has jurisdiction over this matter under Iowa Code section 85.3(2). Defendants' interlocutory appeal is denied. As a result, defendants' pre-answer motion to dismiss is also denied.

ORDER

Therefore, it is ordered:

That defendants' interlocutory appeal is denied and defendants' pre-answer motion to dismiss is also denied.

Signed and filed this 28th day of January, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served, as follows:

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John Hemminger (via WCES)