BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FILED
MAY 31 2019
WORKERS COMPENSATION

MICHAEL G. WOOD, Claimant, vs. JMJ EQUIPMENT TRANSPORT, INC., Employer, and ECOLE INSURANCE COMPANY, Insurance Carrier, Defendants.	File No. 5063827 RULING ON DEFENDANTS' PRE-ANSWER MOTION TO DISMISS

STATEMENT OF THE CASE

Claimant, Michael G. Wood, filed an original notice and petition in arbitration on May 7, 2018. On August 20, 2018, defendants JMJ Equipment Transport, Inc., employer, and ECOLE Insurance Company, insurer, filed a pre-answer motion to dismiss for lack of personal jurisdiction. On October 12, 2018, after a phone conference with counsel, the undersigned ordered an evidentiary hearing on defendants' motion. That hearing occurred before the undersigned on April 25, 2019, in Des Moines, Iowa.

The evidentiary record consists of Claimant's Exhibits 1 through 17, Defendants' Exhibits A and B, and Defendants' Response to Claimant's Exhibit 17. Claimant testified on his own behalf via videoconference. Jasen Jones, defendant-employer's owner, also testified via videoconference.

ISSUE

The sole issue addressed at hearing and to be decided herein is whether the Iowa Workers' Compensation Commissioner can exercise personal jurisdiction over defendants in this matter.

FINDINGS OF FACT

Claimant was employed by defendant-employer as a semi driver responsible for hauling farm equipment, truck chassis, garbage bodies, and other large equipment across the country. (Hearing Transcript, pages 18-19) On September 12, 2016, claimant was traveling in his truck to the John Deere plant in Dubuque, Iowa, to pick up a load at the direction of defendant-employer's dispatcher when he was involved in a motor vehicle accident with an Iowa resident. (Hrg. Tr., pp. 26-28)

Claimant was in Dubuque city limits at the time of the accident. (Hrg. Tr., p. 28) Before traveling to Dubuque on the morning of the accident, claimant had spent the weekend in Davenport, Iowa, after delivering a load in Illinois. (Hrg. Tr., pp. 26-27)

After the accident, claimant was transported by ambulance to a hospital in Dubuque before being medevaced to the University of Iowa Hospitals and Clinics (UIHC) in Iowa City. (Hrg. Tr., p. 29) Claimant remained in in-patient care at UIHC for three weeks. (Hrg. Tr., p. 30)

Upon his release from UIHC, claimant was flown back to Arizona, where he is a resident. (Hrg. Tr., pp. 16, 41) All of claimant's subsequent medical care has been provided in Arizona. (Hrg. Tr., p. 41) Claimant has since made a workers' compensation claim in Arizona and has been receiving benefits. (Hrg. Tr., pp. 43-44)

Just as claimant is an Arizona resident, defendant-employer is headquartered and incorporated in Arizona. (Hrg. Tr., pp. 61, 63) Defendant-employer's bank accounts are also all held in Arizona. (Hrg. Tr., p. 63) Defendant-employer has never had any physical offices or bank accounts in Iowa. (Hrg. Tr., pp. 62-63) Defendant-employer has no contracts with customers who are located in Iowa, nor does defendant-employer have any customers in Iowa that pay defendant-employer to have their goods transported. (Hrg. Tr., p. 62)

Defendant-employer's business, however, is regional and long-distance hauling of equipment, which requires travel through the state of Iowa. As defendant-employer's owner Jasen Jones put it, "Iowa is considered the middle of the country, especially in the trucking industry. You - - no matter which direction you gotta go, you pretty much have to go through Iowa." (Hrg. Tr., p. 67)

In fact, in the two-year span between March of 2014 and March of 2016, defendant-employer's drivers traveled more than 200,000 miles in Iowa. (Claimant's Exhibit 1, p. 1) This was, in part, due to the fact that many of defendant-employer's deliveries were in Minnesota and other surrounding states. (See Hrg. Tr., pp. 21-22; Cl. Ex. 3, p. 45; Cl. Ex. 17)

While traveling in and through Iowa, defendant-employer's drivers make numerous stops at Iowa gas stations for fuel and other necessities, which amounts to thousands of dollars spent in Iowa by defendant-employer each year. (See Cl. Ex. 5, pp. 66-71, 73-82) Defendant-employer is, of course, bound by Iowa traffic laws while traveling through the state, and both claimant and other drivers have been cited by the Iowa Department of Transportation (DOT). (Cl. Ex. 7-9) Defendant-employer's drivers also use the weight stations on Iowa roadways, and the Iowa DOT has issued permits to defendant-employer for oversize or overweight loads. (Hrg. Tr., p. 25; Cl. Ex. 10)

Defendant-employer's contacts with Iowa are not limited to driving *through* the state, however. Instead, after defendant-employer's drivers deliver their loads in the Midwest, they pick up return loads *in* Iowa. (See Tr,. pp. 23-24) Although defendant-employer does not have customers in Iowa, defendant-employer picks up

orders in Iowa for its customers in western states. (Tr., p. 72) For example, as Mr. Jones explained:

> The pickups in Waterloo, Iowa would be for my customer - - for RDO Equipment that has stores in Yuma, Arizona; Wellton, Arizona; Imperial California. And they put their tractors on will-call, and we pick them up for them at the factory in Waterloo. They are my customer, and I am paid by them.

(Hrg. Tr., pp. 72-73) Defendant-employer's drivers also pick up broker loads in the state of Iowa to deliver elsewhere on their way back to Arizona. (See Hrg. Tr., p. 73) Mr. Jones described this process with respect to a bill of lading with an origin in Pella, Iowa:

> This is a - - the Pella, Iowa I don't - - I don't have a customer at Pella. This would be a broker load. So it would be a load that we found on one of the load boards. At that time, we would get good freight coming out of Texas, so we found a - - we found a halfway decent broker load, obviously in the state of Iowa, to get him down to Texas so that we could get a higher paid load coming out of Texas, coming back to the west coast.

(Hrg. Tr., p. 73) Thus, although defendant-employer does not get paid by any Iowa-based companies or customers, Mr. Jones acknowledges that pick-ups and deliveries in Iowa do result in payment from other customers. (Hrg. Tr,. pp. 104-105)

In the two years from September of 2014 through September of 2016, defendant-employer performed 263 pick-ups or deliveries in the state of Iowa. (Cl. Ex. 17) Of these Iowa pick-ups and deliveries, 117 were at the John Deere plant in Waterloo. (Cl. Ex. 17) Claimant was among 28 different drivers who picked up and delivered loads in this state. (Cl. Ex. 17; Cl. Ex. 2, p. 26; see Cl. Ex. 4, pp. 51-55, 57-59)

Claimant picked up loads consisting of tractors or accessories from John Deere or Case in several Iowa cities, including Waterloo, Davenport, and Dubuque. (Hrg. Tr., p. 24) Claimant, therefore, was one of many drivers who performed services in Iowa on defendant-employer's behalf.

CONCLUSIONS OF LAW

The answer to whether this agency can exercise personal jurisdiction over defendants in this case starts with the jurisdictional provisions set forth in Iowa Code section 85.3(2). At the time of claimant's motor vehicle accident in 2016, section 85.3(2) stated as follows:

> 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 § 85.3(2) (2016) (emphasis added).

As explained by the Iowa Supreme Court in Covia v. Robinson, 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." 507 N.W.2d 411, 413 (1993) (citation omitted). In light of this long-arm statute, a two-step analysis is employed. First, I must decide whether the exercise of personal jurisdiction is authorized by section 85.3(2). Id. (citation omitted). If so, then I must decide whether the exercise of personal jurisdiction is constitutional pursuant to the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution. Id. (citation omitted).

With respect to the first step, section 85.3(2) authorizes jurisdiction over employers "for whom services are performed [in Iowa] **by any employee**." Iowa Code § 85.3(2) (emphasis added). The by "any employee" language was added in 2000 to make it clear "that a nonresident employer who has services performed by any employee in this state is deemed to be doing business in this state and is therefore subject to the jurisdiction of the workers' compensation commissioner."[1] Iowa Acts 2000 (78 G.A.) ch. 1007, §1; Iowa S.F. 2373, 78th G.A., Explanation. The final sentence of section 85.3(2) was added to provide "that the workers' compensation commissioner has jurisdiction over an entity if that entity has sufficient minimum contacts with the state." Id.

In the instant case, claimant was an employee of defendant-employer who performed services in Iowa for defendant-employer. Thus, I conclude the exercise of personal jurisdiction is authorized by section 85.3(2).

My determination that section 85.3(2) subjects defendants to jurisdiction of this agency is not the end of the analysis, however. Instead, I must now decide whether the exercise of personal jurisdiction is constitutional. See Covia, 507 N.W.2d at 415. While

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[1] The Iowa Supreme Court analyzed the language of section 85.3(2) in Covia in 1993 and indicated it contained "language limiting the state's in personam jurisdictional power over employers." 507 N.W.2d at 415. This decision, however, came before the 2000 amendments to section 85.3(2), which eliminated the language analyzed by the court. Thus, the court's analysis in Covia is no longer instructive or applicable.

"[t]he full panoply of due process rights are not necessary for administrative proceedings to pass constitutional scrutiny," nonresident defendants are still "'entitled to certain fundamental elements inherent" in the Due Process Clause of the Fourteenth Amendment. Id. (citation omitted). Thus, I must consider whether defendants had sufficient minimum contacts to make this agency's exercise of personal jurisdiction proper. Id.; see Shams v. Hassan, 829 N.W.2d 848, 854-55 (Iowa 2013); Capital Promotions, L.L.C. v. Don King Productions, Inc., 756 N.W.2d 828, 833 (Iowa 2008).

"There are two categories of cases in which the defendant's 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 (internal quotations and citations omitted). Specific jurisdiction, on the other hand, 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 ligation, and the forum; said differently, attention is paid to "'the defendant's connection with the *litigation* in the forum state, not the defendant's connection with *residents* in that state.'" Id. (citation omitted).

Though Iowa courts previously utilized a five-factor test to evaluate whether the exercise of specific jurisdiction is appropriate, the Iowa Supreme Court has more recently adopted a two-criteria test consistent with the United States Supreme Court. 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 (internal quotations and citations omitted); 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 (citations omitted). 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 (citation omitted). Thus, 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 (citations omitted).

With this guidance in mind, I now turn to the first criterion and address whether defendant-employer in the instant case "purposefully directed" its activities at residents of Iowa. As discussed above, defendant-employer's drivers picked up and delivered loads in the state of Iowa. These loads consisted of agriculture equipment that was sold by businesses and dealers in Iowa to customers in other states. While payment for these pick-ups and deliveries did not come from any Iowa-based customers, defendant-employer still derived a monetary benefit from their activities in Iowa. See id. at 473 (noting exercise of personal jurisdiction over a nonresident is appropriate when such an individual purposefully derives benefit from their interstate activities).

Defendant-employer's actions in Iowa were also deliberate, purposeful, and significant. An empty truck on a return trip to Arizona is not profitable. Thus, after delivering a load in the Midwest, defendant-employer intentionally looked for pick-up loads in Iowa to deliver on the way back to the west coast. These transactions in Iowa were not limited to handful of incidents; instead, 28 different drivers made more than 250 pick-ups or deliveries in the state of Iowa from 2014 to 2016. See id. at 475-76 (indicating exercise of personal jurisdiction over a nonresident is appropriate when the nonresident deliberately engages in significant activities with a state).

In addition to its travel in Iowa for pick-ups and deliveries, defendant-employer's drivers also drove through Iowa on their way to other Midwestern states. This resulted in more than 200,000 miles driven in Iowa by defendant-employer's trucks from 2014 to 2016, thousands of dollars spent at Iowa gas stations, hours of use of Iowa roadways, and the involvement of the Iowa DOT.

Ultimately, defendant-employer was doing more than traveling by happenstance through this state on an isolated basis; its drivers were purposefully using Iowa roadways to deliver loads in Iowa and pick up loads from Iowa businesses. See Grandstaf v. Hiner Equipment, L.L.C., 56 F. Supp. 3d 1003, 1012 (2014) (finding no specific jurisdiction despite foreseeability that trailers sold in Indiana may travel interstate to Iowa because there was no purposeful activity by defendants directed at Iowa).

For these reasons, I conclude defendant-employer purposefully directed its activities at Iowa, meaning the first prong of the two-criteria test is satisfied.

Defendants argue the minimum contacts analysis fails on this first criterion because the state of Iowa and its residents are only "incidentally and peripherally involved in this workers' compensation matter" and the interests of Iowa and its residents were not harmed by defendants. (Defendants' Brief, pp. 8-9) While it may be true that neither the state nor its citizens were harmed by the incident at issue, this is not the test. As discussed, the test is whether defendants purposefully directed their activities at residents of Iowa, and I found this to be the case.

Defendants also argue defendant-employer's mileage in Iowa made up only 4.4 percent of their total mileage, making their activities in Iowa incidental compared to their activities elsewhere. Again, however, how a nonresident's activities in the forum state stack up against its activities in other states is not the relevant question.

Furthermore, minimum contacts analysis is intended to guarantee a defendant "will not be required to defend a lawsuit in state court 'solely as a result of "random," "fortuitous," or "attenuated" contacts.'" Shams, 829 N.W.2d at 855 (quoting Burger King Corp., 471 U.S. at 475). Driving more than 200,000 miles in Iowa, including hundreds of pick-ups and deliveries from and to Iowa businesses, cannot be said to be random, fortuitous, or attenuated contact, particularly when defendant-employer intentionally looked for and derived payment for these pick-ups and deliveries in Iowa. With that many miles driven in this state, motor vehicle accidents involving defendant-employer's drivers are not just possible, but probable. As such, defendant-employer should reasonably anticipate being haled into court in Iowa. See id. (citations omitted).

Having decided defendant-employer purposefully directed its activities at residents of Iowa, satisfying the first criterion, the second criterion is whether the litigation results from injuries that arose out of or related to those activities. See Shams, 829 N.W.2d at 856 (internal quotations and citations omitted); Capital Promotions, 756 N.W.2d at 834 (citing Burger King Corp., 471 U.S. at 472-73).

The litigation in this case results from claimant's injuries from a motor vehicle accident that arose directly out of defendant-employer's activities in Iowa. Claimant was on his way to Dubuque from Davenport for a pick-up at the direction of defendant-employer's dispatcher. The second criterion is satisfied.

With both criteria for specific jurisdiction satisfied, I conclude defendants had sufficient minimum contacts with Iowa to make this agency's exercise of specific personal jurisdiction proper.[2]

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[2] Because I determined sufficient minimum contacts exist for the exercise of specific jurisdiction, I need not decide whether defendants' contacts with Iowa were so continuous and systematic to expose defendants to general jurisdiction.

Because I concluded sufficient minimum contacts exist, I must now "'determine whether the assertion of personal jurisdiction would comport with "fair play and substantial justice.'" Capital Promotions, 756 N.W.2d at 834 (citing Burger King Corp., 471 U.S. at 476). In making this decision, I am to consider:

> "the burden on the defendant," "the forum State's interest in adjudicating the dispute," "the plaintiff's interest in obtaining convenient and effective relief," "the interstate judicial system's interest in obtaining the most efficient resolution of controversies," and the "shared interest of the several States in furthering fundamental substantive social policies."

Shams, 829 N.W.2d at 857 (quoting World–Wide Volkswagen Corp., 444 U.S. 286, 292 (1980)). Ultimately, however, defendants who purposefully direct their activities at a forum must present a "'compelling case'" that other factors make jurisdiction unreasonable. Id. (quoting citing Burger King Corp., 471 U.S. at 477).

Mr. Jones testified it would be burdensome for him to travel to Iowa for a hearing on the merits of claimant's case, but as demonstrated in this evidentiary hearing, it is not always necessary to testify in-person, particularly when mechanisms for video appearances are available. Furthermore, this is the same burden that "falls on all out-of-state defendants." Sham, 829 N.W.2d at 860. I do not find the burden on defendant-employer to be significant.

Defendants also argue Iowa does not have an interest in adjudicating the dispute because neither defendants nor claimant are residents of Iowa. While it is true that neither party "resides" in Iowa, defendants overlook the 2000 amendments to Iowa Code section 85.3(2):

> 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 . . . [and] **shall** be subject to the jurisdiction of the workers' compensation commissioner . . . . 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 § 85.3(2) (emphasis added). Through its amendments that removed any language limiting jurisdiction, the legislature codified Iowa's interest in adjudicating disputes like the one at issue. This factor weights strongly in favor of this agency's exercise of personal jurisdiction over defendants.

I recognize claimant already pursued a workers' compensation claim in Arizona and received some benefits. In that sense, claimant has already obtained convenient

relief, and re-litigating the case in Iowa would run somewhat counter to the interstate judicial system's interest in obtaining the most efficient resolution of the controversies. That said, I am simply unable to overlook the legislature's declaration that its changes to Iowa Code section 85.3(2) were to ensure "that the workers' compensation commissioner has jurisdiction over an entity if that entity has sufficient minimum contacts with the state." Iowa S.F. 2373, 78th G.A., Explanation.

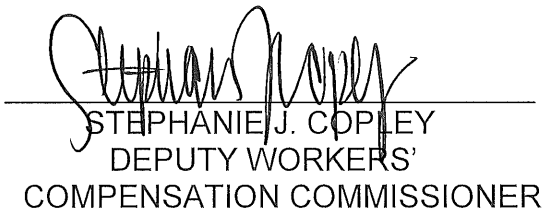
Thus, while some of the above-mentioned factors fall in defendants' favor, I conclude defendants failed to present a "'compelling case'" that other factors make jurisdiction unreasonable. Shams, 829 N.W.2d at 857 (quoting citing Burger King Corp., 471 U.S. at 477).

For the reasons stated above, I conclude the exercise of personal jurisdiction by this agency over defendants is appropriate and does not violate defendants' constitutional due process rights. Capital Promotions, 756 N.W.2d at 834; see Shams, 829 N.W.2d at 856. Defendants' pre-answer motion to dismiss for lack of personal jurisdiction is therefore denied.

THEREFORE, IT IS ORDERED:

Defendants' Pre-Answer Motion to Dismiss is denied.

Signed and filed this 31st day of May, 2019.



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