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## New Jersey Appellate Division Finds That Law against Discrimination May Apply to Out-of-State Employees that Telecommute to Work

In a recent unpublished New Jersey Appellate Division case, the Court analyzed the novel question of law of whether an out-of-state "telecommuting" employee was entitled to protection under the New Jersey Law against Discrimination (LAD). In the matter of *Trevejo v Legal Cost Control, Inc.*, the employee resided in Massachusetts and connected remotely from her home computer to the employer's computer server, which was located in New Jersey. The employee used a company-paid telephone for daily conference calls with other employees, some of whom were located in New Jersey. The employee had only visited the employer's office in New Jersey on a few occasions over the years and did not visit once in the last 6 years of her employment. Upon receipt of her termination, she filed an age discrimination claim under LAD against her New Jersey employer.

The employee filed an appeal of the granting of summary judgement by the Trial Court which held that LAD did not apply to an out-of-state employee. The Appellate Division held that the LAD may apply as the definition within the law applies to "persons" rather than New Jersey "inhabitants." The Court provided that limiting LAD to just New Jersey residents would defeat the law's "strong interest in a discrimination-free workplace." The Court also held that the employee was entitled to additional discovery on the employer's use of other telecommuter employees; location of the employer's server; and the basis for the decision to terminate the employee /Plaintiff, among other things.

**Comment:** Based on this recent Appellate Division decision, New Jersey employers should be aware that their out-of-state employees may be protected under the New Jersey Law against Discrimination. If you have a large number of employees that are out-of-state telecommuters, this may impact your business. However, it should be noted that this case was only limited to LAD and it is still an open question with the Court.