

Will an Out of State Contract Bind the Parties in New Jersey to the Laws of Another State?

In Bruno L. Moraes v. Supreme Auto Transport, No. A-0702-20 (App. Div. June 4, 2021) the Appellate Division held in an unpublished decision that the Claim Petition was inappropriately granted without further consideration of whether Colorado law should apply with a choice of law provision in the contract between the parties.

The petitioner is the sole owner, operator, member, and employee of BMH which is located in New Jersey. Supreme, located in Colorado, is an interstate brokerage corporation that facilitates the transportation of cars between auto manufacturers. They enter contracts with auto manufacturers and motor carrier transportation companies such as BMH to move the vehicles.

In 2018, Supreme and BMH entered an authorized carrier lease for BMH to move vehicles during a one-year period. The lease confirmed that the petitioner would operate the equipment as an independent contractor. There would be no employer/employee relationship and that for purposes of workers' compensation, BMH would provide any necessary policy and coverage. The lease made it clear that BMH was solely responsible for determining how it met its obligations under the agreement. The lease also provided that Colorado law "shall govern this contract".

On August 7, 2018, the petitioner filed a Claim Petition in New Jersey alleging that he was injured in a motor vehicle accident on May 25, 2018, while employed by Supreme. Supreme denied the employment relationship and moved to join BMH as the actual employer. In its argument, Supreme contended that Colorado law applied pursuant to the contractual choice of law provision and Colorado law presumes an independent contractor relationship based upon the language of the lease.

The Judge heard testimony from the petitioner and Supreme's Chief Operating Officer and found Supreme was petitioner's employer. The Judge did not refer to the lease provision requiring Colorado law to govern and did not consider Colorado law. The Judge applied New Jersey law only.

On Appeal, the Appellate Division noted that when parties to a contract have agreed to be governed by the laws of a particular state, New Jersey Courts will uphold the contractual choice if it does not violate New Jersey's public policy. The Court noted the Judge must address two issues:

1. Whether the chosen state has not substantial relationship to the parties or the transaction and there is no other reasonable basis for the parties' choice;
2. Application of the law of the chosen state would be contrary to a fundamental policy of a state which has a materially greater interest than the chosen state with respect to the application of its law.

The Appellate Division reversed and remanded the Judge's decision since the Judge made no such determination and simply applied New Jersey law despite the contractual provisions.

Comment: It will be interesting to see how the Judge finds based upon the directive of the Appellate Division. The Appellate Division noted that clearly the substantial relationship prong of the test should not prevent the Judge from applying Colorado law since Supreme is in Colorado. The Judge would have to determine that the application of Colorado law would be contrary to a fundamental policy in New Jersey, that New Jersey has a materially greater interest in the matter than Colorado, and general choice of law consideration should allow New Jersey to apply.

The Judge may reach this conclusion based solely upon the fact that the petitioner is a New Jersey resident and may be unable to obtain benefits otherwise. It certainly would be unfortunate since the parties appear to

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have had equal footing concerning entering into the lease agreement and the petitioner certainly had the opportunity to obtain workers' compensation coverage as the sole proprietor of his company.