



SEVENTH CIRCUIT HOLDS THAT WORK DONE IN ILLINOIS IS GOVERNED BY ILLINOIS LAW, EVEN WHERE AN OUT-OF-STATE EMPLOYER CHOOSES OTHERWISE

On August 17, 2022, the Seventh Circuit issued its opinion in *Johnson v. Diakon Logistics, Inc.*, 2022 WL 3443633. The plaintiffs in this case, a class of truck drivers who delivered appliances out of warehouses in Romeoville and Granite City, Illinois, were seeking reimbursement for payroll deductions that did not comport with the Illinois Wage Payment and Collection Act, 820 ILCS 115/9 (“IWPCA”). The Employer and Defendant, a Delaware Company with its principal place of business in Virginia, treated the drivers as independent contractors and required them to sign agreements with a choice of law clause choosing Virginia law as controlling over their relationship. The agreements included language which allowed the Employer to deduct amounts from the drivers’ paychecks for alleged damage to the company’s property. However, it failed to obtain written consent from the drivers for these deductions, in violation of the IWPCA.

The trial court held that Virginia law applied and entered summary judgment in favor of the employer. However, on appeal, the Seventh Circuit held that the IWPCA’s definition of “employee,” and not the agreement, should be applied to determine whether or not the drivers are actually employees and subject to the IWPCA’s protections. The Court held further, and most importantly, that the IWPCA applied to the drivers’ claims because “the [IWPCA] governs payment for work in Illinois regardless of what state’s law governs other aspects of the parties’ relations.” In other words, because the IWPCA’s protections apply to all workers in Illinois, regardless of whether or not there is an employment “contract,” the Virginia choice of law provision in the drivers’ agreements did not prevent them from seeking relief under the IWPCA.

This decision is a crucial one for all workers in Illinois who work for large companies or out-of-state companies and have out-of-state choice-of-law provisions in their contracts. It means that individuals who work in and reside in Illinois are likely to be able to avail themselves of the IWPCA’s protections, regardless of the location of their employer. Many companies choose to incorporate or identify their principal place of business in other states because employment laws elsewhere are less favorable to employees than they are in Illinois. Especially in our new world of remote-work, this decision is a boon to Illinois employees who work from home or work for large, multi-state corporations. The Court’s holding in *Johnson* will make it harder for out-of-state employers to deny rights to Illinois workers.

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