

## Workers' compensation – Jurisdiction – Out-of-state injury

*Supreme Judicial Court*

By: Mass. Lawyers Weekly Staff ◉ November 2, 2020

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Where a tractor-trailer driver sought workers' compensation for a back injury he sustained in Maine, a decision by the Department of Industrial Accidents reviewing board to dismiss the claim based on a lack of jurisdiction should be reversed, as there were sufficient significant contacts between Massachusetts and the driver's employment such that the employment relationship was located in Massachusetts.

"We conclude that, given the significant contacts between the claimant's employment and the Commonwealth, the workers' compensation act (act), G. L. c. 152, confers jurisdiction on the department to adjudicate his claim. ...

"... Citing *Carlin's Case*, 3 Mass. Workers' Comp. Rep. 41 [(1898)], the board concluded that because Massachusetts was neither the place of hire nor the place of injury, the only way for the Commonwealth to have jurisdiction over the employee's claim would be if 'something happened' to transfer the relationship from the place of hire, Pennsylvania, to Massachusetts. Because the employee did not make such a showing, the board concluded that jurisdiction in the Commonwealth could not be established.

"Given the remedial nature of the statute, and the mandate to broaden rather than restrict jurisdiction under the act, we conclude that a more flexible approach is necessary. We hold, therefore, that jurisdiction to adjudicate workers' compensation claims lies in Massachusetts where there are sufficient significant contacts between the Commonwealth and the employment such that the employment can be said to be located in the Commonwealth. ...

"Although determining the location of the employment relationship will depend upon the facts of each case, relevant considerations may include whether the employee is a resident of the Commonwealth; the employer's contacts with and presence in the Commonwealth; whether the employee was recruited or hired in the Commonwealth; whether and under what conditions the employee is able, or expected, to return to the Commonwealth between assignments; and whether the employer procured workers' compensation insurance in Massachusetts. ...

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"Evaluating the contacts between the claimant's employment and the Commonwealth, we note that prior to and during his employment, the claimant was a Massachusetts resident who was licensed by the Commonwealth to drive commercial vehicles, including tractor-trailers. ... The claimant learned of the position with the employer by way of an advertisement placed in a local Massachusetts newspaper. ...

"During the course of his employment, the claimant drove the employer's tractor-trailer thousands of miles in Massachusetts, more than he drove in any other State except Pennsylvania. Further, the claimant had employment-related contact with Massachusetts on almost one-half (46.6%) of the days he worked for the employer, more than with any other State. He picked up tons of goods from, and delivered tons of goods to, the employer's Massachusetts customers. ...

"The employer made regular use of three customer-owned facilities where drivers, including the claimant, regularly would drop off empty trailers and pick up loaded ones. ... The claimant was permitted to park the tractor-trailer in Massachusetts and stay at home during days off. ...

"After sustaining his injury, the claimant returned to Massachusetts for medical care. ... The employer maintained workers' compensation insurance with the insurer, which provided insurance to Massachusetts companies. ...

"Considering the foregoing, there were sufficient significant contacts between Massachusetts and the claimant's employment such that the employment relationship was located in Massachusetts. We therefore conclude that the Commonwealth has jurisdiction over the claimant's claim. ...

"We vacate the board's decision and remand the case to the department for further proceedings consistent with this opinion."

Mendes's Case (Lawyers Weekly No. 10-171-20) (18 pages) (Budd, J.) Appealed from a decision of the Industrial Accident Reviewing Board. John M. Sahady for the claimant; Richard L. Neumeier (John C. White also present) for the insurer' Kathy Jo Cook, Thomas R. Murphy, Kevin J. Powers and Patrick M. Groulx, for Massachusetts Academy of Trial Attorneys, amicus curiae, submitted a brief (Docket No. SJC-12857) (Oct. 29, 2020).

[Click here to read the full text of the opinion.](#)

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