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ILLINOIS APPELLATE COURT FINDS THAT EMPLOYEE'S HOME OFFICE SATISFIES "OTHER OFFICE" REQUIREMENT FOR PURPOSES OF JURISDICTION IN COOK COUNTY, ILLINOIS

Recently, the Illinois First District Appellate Court affirmed a trial court's ruling, which found that a corporation's employee's home office was an "other office" for the purpose of establishing jurisdiction in Cook County. Under Illinois law, jurisdiction and venue can only be established if a corporation is at home in the venue, it has an "other office" in the venue or it is "doing business" in the venue.

Plaintiff, Sergiu Tabirta, was involved in a tractor-trailer crash in Ohio. The Defendant, Gilster May Lee Corp. ("GML") is a Missouri corporation, with a location in southern Illinois. Although the accident occurred in Ohio, Plaintiff filed his lawsuit in Cook County, Illinois and GML moved to change venue, arguing that it cannot be sued in Cook County. GML employed a Cook County resident, James Bolton, who worked from a home office and primarily worked for three Cook County customers, Aldi, Central Grocery and Sears/Kmart.

Plaintiff argued that an GML employee's [Bolton] private residence, where he conducted business, could be considered an "other office" under Illinois law. GML argued that the employee's "private residence is simply his home" and that GML had no ownership or financial interest in his home and did not manage or control the property in any way. Plaintiff argued in response that GML specifically hired Bolton to work out of his Cook County residence to service several GML's Illinois customers and that Bolton's residence was specifically chosen by GML to tend to its Illinois customers.

The Appellate Court analyzed the term "other office" as it is not defined by statute, and relied on several other cases that have defined it as:

> "the phrase other office as used in [the Illinois] venue statute means a fixed place of business at which the affairs of the corporation are conducted in furtherance of a corporate activity. This other office may be, but need not be, a traditional office in which clerical activities are conducted. Rather, we believe that the phrase other office includes any fixed location purposely selected to carry on an activity in furtherance of the corporation's business activities. The facility may be open to the public or may be a strictly private corporate operation." *Melliere v. Luhr Bros., Inc.*, 302 Ill.App.3d 794, 796 (1999).

The Appellate Court found that GML hired Bolton in 2011 for the express purposes of servicing three of GML's Illinois customers, the most important of which was Aldi, a food retailer with corporate office located in Batavia, Illinois. Further, the Appellate Court relied on deposition testimony of GML's general counsel who testified that GML was looking to hire a "point person" in Illinois who lived in close proximity to Aldi's Batavia office. Since his hiring, Bolton had acted as GML's "point person" and has worked 24 hours per week to service and maintain GML's relationships with Aldi and other clients. The Appellate Court also found that GML does not possess an ownership interest in Bolton's personal residence, but determined that the lack of such

interest did not preclude a finding of "other office". The Appellate court relied on the *Melliere* court's analysis that the relevant inquire was "whether the property was a 'fixed location purposely selected to carry on an activity in furtherance of the corporation's business activities'."

Based on these facts, the Appellate Court found that Bolton's home residence satisfied the *Melliere* court's definition of the term "other office" and that GML is thus a resident of Cook County, Illinois.

GML has filed a petition for leave to the Illinois Supreme Court. Initially, the Appellate Court passed on GML's petition in February, 2018, but the Illinois Supreme Court ordered the appeals court to grant the petition. Accordingly, the Illinois Supreme Court may have an interest in hearing this matter and may make a finding that is different from the Appellate Court.

Sergiu Tabirta v. James J. Cummings, et al., 2019 IL App (1st) 172891-B.