

# Jurisdiction in Illinois Workers' Compensation Cases: The 2006 *Mahoney* Decision

by Philip A. Bareck

Can a nonresident of Illinois, employed and injured in a different state, file a workers' compensation claim in Illinois if the employment contract took place here? This article will address this question, which was recently revisited by the seminal Illinois Supreme Court decision *Mahoney v. Illinois Industrial Commission*.<sup>1</sup>

Since the first Workers' Compensation Act, previously referred to as the Workmen's Compensation Act, was enacted in 1911 in Illinois, courts have pondered such jurisdictional issues. Creative lawyering had a way of swaying the courts' interpretations over the years. However, as we approach the statute's century mark, the jurisdictional controversy, most recently raised in several appellate court decisions that considered whether Illinois properly confers jurisdiction over employment injuries sustained by a worker outside the state if the employment contract for hire was made in Illinois, has been put to rest. This article will review the *Mahoney v. Indus. Comm'n* decision, which answered this jurisdictional question, and the landmark "contract for hire" cases, which shaped the landscape for the *Mahoney* decision.

## The Illinois Jurisdictional Provision

In Illinois workers' compensation claims, only individuals defined as employees are covered under the Act. The jurisdictional definition is found in Section 1 of the Illinois Workers' Compensation Act.<sup>2</sup> Section 1, in pertinent part, defines employees as:

**Every person in the service of another under any contract of hire, express or implied, oral or written, including persons whose employment is outside of the State of Illinois where the contract of hire is made within the State of Illinois, persons whose employment results in fatal or non-fatal injuries within the State of Illinois where the contract of hire is made outside of the State of Illinois, and persons whose employment is principally localized within the State of Illinois, regardless of the place of the accident or the place where the contract of hire was made.**<sup>3</sup>

Moreover, the statute goes on to state the following: "An employee...may elect to pursue his remedy in the State where injured or disabled, or in the State where the contract of hire is made, or in the State where the employment is principally localized."<sup>4</sup>

Notwithstanding the plain language of the statute conferring jurisdiction under three scenarios – (1) Contract for hire taking place in Illinois; (2) Accident taking place in Illinois; and (3) Employment principally located in Illinois – appellate court case law began questioning whether the contract for hire in Illinois was sufficient, in and of itself, for Illinois jurisdiction in an out of state injury/accident. The Illinois Supreme Court decision in *Mahoney* has put to rest the issue with a resounding and unambiguous holding that the "site of contract for hire" occurring in Illinois is sufficient for Illinois jurisdiction.<sup>5</sup>

### **The Mahoney Arbitration and Commission Decisions**

In *Mahoney*, the claimant was hired by United Airlines as a ramp serviceman at O'Hare International Airport in Chicago, Illinois. The contract for hire took place in 1969. In 1993, after twenty-four-years of service in Chicago, he voluntarily transferred to United's facility at Orlando International Airport in Orlando, Florida. Following his transfer, he returned to Illinois approximately three times for training sessions and also returned for family visits. On May 19, 1999 and January 2, 2001, the claimant sustained accidents in Orlando, Florida while working for United Airlines. The claimant filed applications for adjustment of claims for both injuries in Illinois, and the cases were consolidated.

The arbitrator examined the following factors: (1) the claimant's continuity of employment between the contract and the injury date; (2) the length of time between his departure from Illinois and the injury; (3) the claimant's contacts with Illinois following his departure; (4) the fact that the transfer was voluntary; and (5) the site of the contract for hire taking place in Illinois, and concluded that Illinois failed to have jurisdiction.<sup>6</sup> The Illinois Workers' Compensation Commission ("Commission"), previously referred to as the Illinois Industrial Commission, affirmed and adopted the arbitrator's decision, finding that this jurisdictional issue was controlled by appellate court cases *Carroll v. Industrial Commission*<sup>7</sup> and *United Airlines v. Industrial Commission*<sup>8</sup> (also referred to as *Rankins*). The Commission agreed with the arbitrator's five factor test, referred to above, and opined that the site of contract for hire is not the exclusive test to determine jurisdiction, but rather a factor to be considered "within the totality of the arrangements....The Act does not create a perpetual right to claimants who transfer to another state to recover benefits for work-related injuries in the new state of residence when the claimant has voluntarily severed relations with Illinois."<sup>9</sup>

### **The Carroll and Rankins Decisions**

The *Carroll* and *Rankins* Decisions had changed the "contract of hire" analysis. Instead of the contract for hire in Illinois controlling the jurisdictional issue, these Appellate Court cases applied a factual analysis and totality-of-the-circumstances type test in assessing out of state injuries, and found that the contract for hire was but one of the factors to review. These cases became pivotal decisions.

In *Carroll, supra*, the claimant was hired in Illinois as an over-the-road truck driver in 1966. Three years later the claimant moved to Michigan but continued to work out of the Chicago terminal. In 1970, the company changed the driver's operations and the claimant bid out of the Chicago terminal to Nebraska. The claimant did not have to complete a new application, photograph or physical examination and retained his seniority status. In 1978, the company instituted another change in operations and the claimant moved to Idaho. Similar to the previous transfer, he did not have to complete a new application, photograph or physical examination and continued to retain his seniority status. On March 8, 1988, the claimant was injured in Washington. The Illinois appellate court noted that "the employment contract itself is but one factor the court weighs in determining whether Illinois jurisdiction is proper."<sup>10</sup> The court explained that the claimant's transfer was not voluntary, the accident occurred nineteen years since he last resided in Illinois, and the claimant failed to maintain significant contacts in Illinois, and therefore concluded that Illinois did not have jurisdiction.<sup>11</sup>

In *United Airlines v. Industrial Commission* (hereafter referred to as *Rankins*), the claimant was hired as a flight attendant for United Airlines in 1969. Her contract for hire was found to have taken place in Illinois, and she was initially domiciled in New York where she lived until 1972 at which time she requested a transfer to Los Angeles, CA. Her seniority was unaffected by the change in domicile, and she continued to work out of Los Angeles until May 1975, at which time she voluntarily transferred to San Francisco, CA. In 1983, while domiciled in CA, she sustained an injury while on a flight that originated in California and was destined for Oregon.

The claimant lived in California at the time of the accident. The appellate court agreed that the contract for hire took place in Illinois, and noted that “[t]he place where the contract for employment is made is the place where the last act necessary to give validity to the contract occurred.”<sup>12</sup> The court went on to find that the Act “may” be applied to nonresidents of Illinois, who are injured outside of Illinois and who have entered into a contract for hire in Illinois.<sup>13</sup> Citing *Carroll*, the court reiterated the proposition that the site of the contract for hire “is not the exclusive test for determining the applicability of the Act, but is only one of the factors the Commission is to consider within the totality of the arrangements.”<sup>14</sup> The court focused on the voluntary transfer and reasoned that the claimant surrendered any right under the Illinois Act by voluntarily choosing another State in which to work when she could have chosen Illinois. The court also noted that she preferred to live in another state and that 14 years lapsed between the contract for hire and her accident without significant contact with Illinois.<sup>15</sup> Analogous to the holding in *Carroll*, the appellate court denied Illinois jurisdiction.

After the *Carroll* and *Rankins* decisions, it appeared that the contract for hire and the extraterritorial provision of the statute had become severely eroded, if not abolished.

### **The Mahoney Appellate Court Decision**

It was not until the *Mahoney* case that the First District Appellate Court of Illinois, Industrial Commission Division, had a further opportunity to reevaluate its previous holdings in *Carroll* and *Rankins* and to reassess whether the site of the contract for hire is the “exclusive test” to confer jurisdiction in Illinois. The Appellate Court in *Mahoney* began the analysis by examining the plain language of the statute and noting that it expressly states that the site of the contract for hire is the exclusive test for determining Illinois jurisdiction. Thereafter, the court reviewed Illinois Supreme Court case law and reasoned that “*Carroll* and *United Airlines (Rankins)* are clearly at odds” with Supreme Court precedent and “[w]e are thus faced with the problem of whether to continue to ignore the plain language of the Act and the binding supreme court precedent....” The Appellate Court concluded:

the situs of the contract is the sole determinate of jurisdiction under the Act for a person whose employment is outside Illinois where the contract of hire is made within Illinois. To the extent that *Carroll* and its progeny deviate from this holding, they are overruled. Ultimately, we leave it to our supreme court whether to continue in this interpretation of the Act.<sup>16</sup>

### **The 2006 Mahoney Illinois Supreme Court Decision**

The Illinois Supreme Court’s analysis in *Mahoney* included a comprehensive historical analysis of the jurisdictional provision, both from a legislative and judicial standpoint, which provided the rationale for its holding in this case. The Court’s chronological recapitulation dated back to 1919, when the Illinois Supreme Court in *Union Bridge & Construction Co. v. Indus. Comm’n* addressed whether Illinois had proper jurisdiction over the claim of a 19-year-old worker hired in Illinois and tragically killed in Kentucky. The Court reviewed the 1913 Compensation Act, replacing the 1911 version, which was not extraterritorial. The term “employee” was defined as: “Every person in the service of another under any contract for hire, express or implied, oral or written, including aliens and minors who are legally permitted to work under the laws of the State...”<sup>17</sup> Because the definition of employee did not assist the 1919 Court in addressing the jurisdictional issue, the Court turned to the language of the Act’s title at the time, which in pertinent part expressly stated that the purpose of the Act was to provide “...compensation for accidental injuries or deaths suffered in the course of employment **within this state.**”<sup>18</sup> Therefore, because there was no provision authorizing compensation for injuries occurring outside the state benefits were denied.<sup>19</sup>

After the *Union Bridge* decision, the Illinois legislature amended the Act to expressly include injuries that occurred outside the state when the contract for hire is made within Illinois. As a result, the amended 1925 definition of “employee” reads as follows: “Every person in the services of another under any contract of hire, express or implied, oral or written, including persons whose employment is outside of Illinois where the contract of hire is made within the state of Illinois.”<sup>20</sup> Shortly thereafter, the Court in *Beall Brothers* relied upon this broader definition to hold that a traveling salesman hired in Illinois but who lived and was injured in Colorado, was entitled to compensation.<sup>21</sup>

In 1951, the Act was re-enacted, repealing the Act of 1913. The 1951 Act restructured sections of the previous Act and incorporated the amendments to the 1913 Act, including the 1925 amendments to Section 1(b)(2).<sup>22</sup>

In 1980, the Court examined the 1951 extraterritorial contract for hire provision of Section 1(b)(2) in *Youngstown Sheet & Tube Co. v. Indus. Comm’n*.<sup>23</sup> In *Youngstown*, the claimant was hired in Illinois in 1951. Ten years later his plant was permanently shut down, and he was laid off and collected unemployment benefits. Several months later, he received a letter from his employer advising him to report for a job interview in Indiana. He underwent a preemployment examination, was hired, and received a new employee identification number. Thereafter, he was injured. Although he retained his original seniority/pension rights, the Court found that his Illinois employment contract terminated and a new contract of employment was entered into in Indiana. Therefore, Illinois was found to lack jurisdiction.<sup>24</sup>

In 1981, the constitutionality of the contract for hire provision was upheld.<sup>25</sup> In 1983, the Court readdressed the jurisdictional issue when the claimant, a ramp serviceman, hired in Illinois in 1972 and transferred to California in 1976, was thereafter injured in California.<sup>26</sup> Noting that the plain language of the Act denotes extraterritorial effect, the Court found jurisdiction to be proper in Illinois and further noted that “[t]his court has held that employment contracts made in Illinois are normally to be interpreted as including an agreement by the parties to be bound by the Act even when the contemplated employment is exclusively in other States.”<sup>27</sup>

The *Mahoney* Court found that these cases provided a “clear direction” consistently reaffirming that the contract for hire is a singular basis for jurisdiction in Illinois.<sup>28</sup> Therefore, because Mahoney’s original Illinois contract of hire was still in effect when he was injured in Florida, the Illinois Supreme Court affirmed the Appellate Court’s holding, which found that Illinois retained jurisdiction. Hence, Mahoney was able to pursue the benefits in Illinois.

The *Mahoney* decision has eliminated the need for the five factor test/totally-of-the-circumstances analysis to determine jurisdiction so long as the contract for hire takes place in Illinois. It appears that this is precisely what the Illinois legislature intended when it amended the statute in 1925, and it is consistent with the Illinois Supreme Court holdings dating back to the *Beall* decision in 1930. *Mahoney* has reestablished that the “contract for hire” provision under Section 1(b)(2) is the sole and exclusive test for confirming Illinois jurisdiction in a workers’ compensation case. This avails injured individuals, who are nonresidents and whose employment and injury takes place out of state, the option of pursuing Illinois benefits so long as the contract for hire takes place here.

With many states following the trend of curtailing workers’ compensation benefits, Illinois has been steadfast in protecting injured workers rights and recoveries. In Illinois, injured employees still have the right to choose their own medical providers, benefits for lost time (referred to as temporary total disability benefits or TTD), and fair/equitable permanency recoveries. Therefore, filing a workers’ compensation claim in Illinois is a wonderful option for such injured individuals.

## Endnotes

<sup>1</sup> 843 N.E.2d 317 (2006).

<sup>2</sup> 820 ILCS 305 (2006) (amended Nov. 16, 2005).

<sup>3</sup> § 1(b)(2) (emphasis added).

<sup>4</sup> § 1(b)(3).

<sup>5</sup> *Mahoney*, 843 N.E.2d 317 at 319.

<sup>6</sup> *Id.* at 319.

<sup>7</sup> *Carroll v. Indus. Comm'n* 563 N.E.2d 890 (Ill. App. Ct. 1990).

<sup>8</sup> *United Airlines v. Indus. Comm'n*, 627 N.E.2d 1104 (Ill. App. Ct. 1993).

<sup>9</sup> *Mahoney v. United Airlines*, No. 01 W.C. 17685, No. 01 W.C. 6100, *consolidated*, No. 03 I.I.C. 0162 (March 6, 2003). *Mahoney v. Indus. Comm'n* (United Airlines), 823 N.E.2d 110, 111-112 (Ill. App. Ct. 2005).

<sup>10</sup> *Carroll*, 563 N.E.2d 890 at 892.

<sup>11</sup> *Id.* at 893.

<sup>12</sup> *United Airlines* at 1107.

<sup>13</sup> *Id.* at 1108.

<sup>14</sup> *Id.* at 1108.

<sup>15</sup> *Id.* at 1111.

<sup>16</sup> *Mahoney*, 823 N.E.2d 110 at 116. On denial of rehearing, all of the justices filed a statement that this case involved a substantial question warranting consideration by the Illinois Supreme Court.

<sup>17</sup> Laws 1913, § 5, p. 335.

<sup>18</sup> *Mahoney*, quoting *Union Bridge & Construction Co. v. Indus. Comm'n*, 122 N.E. 609 (1919) (emphasis added).

<sup>19</sup> *Union Bridge Co.*, 122 N.E. 609 at 611

<sup>20</sup> Laws 1925, § 5, p.380 (app. May 1925) (emphasis added). *Beall Brothers Supply Co. v. Indus. Comm'n*, 172 N.E. 64 (1930).

<sup>21</sup> *Beall Bros.*, *supra*.

<sup>22</sup> Ill.Comp. Stat. Ann. at 122 (Smith-Hurd 2004); *Mahoney*, 843 N.E.2d 317 at 322.

<sup>23</sup> *Youngstown Sheet & Tube Co. v. Indus. Comm'n*, 404 N.E.2d 253 (1980).

<sup>24</sup> This decision, still good law today, underscores the need for the Illinois employment contract to remain in force at the time of the accident.

<sup>25</sup> *Goldblatt Brothers, Inc. v. Indus. Comm'n*, 427 N.E.2d 118 (1981). The court upheld the constitutionality of the 1975 amendment to Section 1(b)(2), which broadened the definition of employment to include “employment principally localized in Illinois.”

<sup>26</sup> *United Airlines v. Indus. Comm'n* (Walker), 449 N.E.2d 119 (1983).

<sup>27</sup> *Id.* at 119.

<sup>28</sup> *Mahoney*, 843 N.E.2d 317 at 324.

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