

# Illinois: No Agency Relationship Between Shipping Broker and Carrier Where Broker Does Not Control Routes or Manner of Delivery

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The Illinois First District Appellate Court recently issued a decision that reversed a trial court's ruling, and granted a judgment notwithstanding the verdict on appeal. The Court declined to find an agency relationship where a shipping broker hired a motor carrier to deliver loads to designated persons at designated times, but did not reserve the right to control the motor carrier's hired driver's routes or manner of delivery.

In *Cornejo v. Dakota Lines, Inc.*, 2023 IL App (1st) 220633, the Court considered whether a shipping broker, Alliance Shippers (Alliance), that contracted with a motor carrier, Dakota Lines Inc. (Dakota), to transport goods on behalf of one of the shipper's clients was vicariously liable for the carrier's driver's negligence, since neither the driver nor the carrier were the shipping broker's agents. The Court ruled that there were no facts from which a reasonable jury could find an agency relationship between the shipping broker and the carrier.

## Background

The plaintiff suffered injuries when a tractor-trailer struck him while he was standing on the shoulder of a highway. The tractor was owned by Dakota and was operating under Dakota's Department of Transportation authority. Dakota had a contractual relationship with Alliance to transport trailers owned by another company. During trial, the jury answered a special interrogatory finding Dakota to be an agent of Alliance, and held that all defendants (the driver, Dakota and Alliance) were jointly liable for the damages totaling \$18,150,750.

## Court Analysis

The Appellate Court reviewed the nature of the relationship between Dakota and Alliance and concluded that the evidence overwhelmingly supported Alliance, and found that the contract between Dakota and Alliance explicitly identified Dakota as an independent contractor responsible for its employees and agents. In reaching its decision, the Court highlighted that Alliance did not:

- Pay, hire or train Dakota's drivers
- Withhold taxes from Dakota drivers' pay
- Control routes or provide tools or equipment
- Own any of the vehicles used by Dakota's drivers.

The Court found that Dakota held complete autonomy over its operations and personnel, and the agreement allowed Dakota to work for other brokers, which underlined its status as an independent contractor. In explaining the high degree of control required by the Illinois courts, the Appellate Court relied on *Sperl v. C.H. Robinson Worldwide, Inc.*<sup>1</sup> and *Powell v. Dean Foods Co.*<sup>2</sup>

In *Sperl* and *Powell*, the Court found that agency relationships existed because the evidence presented in both cases showed a high degree of control by the shipping broker over the pay, routes and manner of delivery. The Court also cited and distinguished *McHale v. Kiswani Trucking, Inc.*,<sup>3</sup> where the shipping broker owned the loaded trailer involved in the collision at issue and an expert testified the driver was an employee of both the broker and the carrier.

In distinguishing the case at bar from *Sperl*, the Court noted that only Dakota had the power to fire the driver, and Alliance had no ability to fine him. In addition, the driver never communicated with Alliance, Dakota dispatched the driver and there was no evidence that Alliance controlled the manner in which the load was hauled.

Notably, the Court declined to accept the plaintiff's evidence and opinions from her expert as evidence of control, such as Alliance's requirement that Dakota add Alliance as an additional insured, issue requirements regarding seal integrity, freight bills and cargo security, or Alliance requiring Dakota to use its software to communicate when shipments were ready for transport.

The Court concluded that no reasonable jury could deduce an agency relationship between Dakota (and its driver) and Alliance because none of the facts presented showed the high degree of control required by Illinois courts when determining whether an agency relationship exists.

### **Takeaway**

This judgment highlights liability determinations in agency versus independent contractor cases, underscoring the necessity for clear, definite contractual terms that distinctly define the roles, responsibilities and liabilities of each party. The decision also serves as a reminder for businesses and their legal teams to understand and document contractual relationships to avoid unforeseen liabilities.

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<sup>1</sup> 408 Ill. App. 3d 1051, 1057, 349 Ill. Dec. 269, 946 N.E.2d 463 (2011).

<sup>2</sup> 2013 IL App (1st) 082513-B, ¶¶ 74-75, 379 Ill. Dec. 837, 7 N.E.3d 675.

<sup>3</sup> 2015 IL App (1st) 132625, 396 Ill. Dec. 46, 39 N.E.3d 595.