

Supreme Court Hears Case With Big Consumer Ramifications

What state should have jurisdiction over companies that operate nationally? That may sound like a silly question, but it is exactly the question being pondered by the Supreme Court this week. And any decision reached by the Court is likely to have a big impact on business, consumers and state consumer protection laws.

If you have ever wondered why a lot of companies incorporate in Delaware, the answer is very simple. Delaware law is very friendly to business. It is not so friendly to consumers however. For instance, Delaware is where most banks are incorporated. That's because it is one of two states without any usury laws (laws that limit the interest rates that can be charged on loans). A bank incorporated elsewhere could find itself running afoul of the law. Companies which were sued by people not living in the same state that they were incorporated in quickly found out that their state courts couldn't help them. This is called "diversity jurisdiction". If you live in California and file suit against a company in another state, then the company being sued can have the case moved to federal court. Companies like this because federal law offers nowhere near the number of consumer protections that state laws generally do.

Over the years however, there has been a shift in how federal courts actually determine where a company is located for purposes of "diversity jurisdiction". And there are now at least four separate standards used by different appellate courts around the country. Because of this, the Supreme Court has agreed to settle the question once and for all. And based on the questions asked by the justices during their hearing, it looks like the standard for determining where a company is headquartered and which state has jurisdiction over it is about to make a dramatic change.

The case heard by the court is known as Hertz Corp. v Friend. The case is a class action suit about wage and hour laws that was filed in California. Hertz is a Delaware Corporation with its headquarters located in New Jersey.

Once the case was filed in California, Hertz motioned to have it moved to federal court. But the 9th Circuit Court of Appeals found that because Hertz had more employees and outlets in California than in any other state, California should retain jurisdiction. Other circuits have found that the state with jurisdiction may be the one where the company is headquartered, or where its management is located. These are very different standards.

The justices seemed skeptical of the argument that jurisdiction should be retained by the state with the greatest number of business outlets or personnel. Justice Ruth Bader Ginsberg said of this standard that, "California's going to come out the winner much more than any other state in this test just based on its size." Other justices seemed to agree that this was not a standard that they wanted to implement. Sonya Sotomayer said, "I'm having a hard time understanding what the appreciable difference is between 20 percent and 14 and the balance being spread over so many other places." The 9th Circuit Court had determined that 20% of Hertz's business was conducted in California and 14% of it was conducted in Florida.

But several justices appeared to agree that the standard that should be used is where a company is physically headquartered. There also appeared to be support for a standard that wouldn't allow a company to headquarter in a state without locating its management and offices there. Justice Sotomayer asked, "So what constitutes headquarters? How many executives have to live there? What else has to exist there? And then what is the default rule if those things don't exist?" This position also appeared to receive support from Justices Scalia and Kennedy.

If the Supreme Court does change the rules for diversity jurisdiction, consumers are likely to benefit. A final decision is expected in June, 2010.

Note: When posting a comment, please sign-in first if you want a response. If you are not registered, [click here](#). Registration is easy and free.

Follow me on Twitter:

Top Stories