



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STEPHANIE JACKSON v. EAGLE KMC LLC, et al.
CV-18-0056-PR**

PARTIES:

Petitioners/Defendants: Eagle KMC, LLC a/k/a Eagle KMC Transportation Co. a/k/a Eagle J&K Transportation a/k/a Eagle Tucson South, LLC a/k/a Eagle Transportation, LLC; Rachael Gabriella Hender; Werner Enterprises, Inc.; Drivers Management, LLC (collectively, “Eagle”).

Respondent/Plaintiff: Stephanie Jackson (“Jackson”).

FACTS:

Background Facts. In early 2014, Drivers Management, LLC (“Drivers”), a Nebraska company, hired Jackson as a truck driver. Drivers contracted with Eagle, an Arizona company, to train Jackson to drive a semi-tractor trailer. Early one morning in February 2014, while driving through Mohave County, Arizona, the Eagle driver-instructor lost control of her truck and rolled it. When the accident occurred, Jackson was in the truck’s sleeper berth and was injured.

When Jackson began at Drivers, she signed a consent form saying that she “waive[d] jurisdiction of any state (other than the state of Nebraska) for workers’ compensation benefits and protection” and “consent[ed] to the state of Nebraska’s workers’ compensation laws.” Consistent with the consent, Jackson filed a workers’ compensation claim in Nebraska and eventually received benefits. Drivers was self-insured for workers’ compensation and had a subrogation claim (right to pursue reimbursement) against any third-party recovery Jackson might get.

In February 2016, just before the two-year statute of limitations in A.R.S. § 12-542 expired, Jackson filed suit against Eagle in superior court in Mohave County, asserting negligence and related claims in connection with the accident. Jackson also named Drivers as a nominal defendant, as Nebraska law required “for the purpose of reimbursement, under the right of subrogation.” Neb. Rev. Stat. § 48-118.

In May 2016, Eagle filed a motion to dismiss. It relied primarily on A.R.S. § 23-1023(B), which provides that an “employee who is entitled to [workers’] compensation under this chapter” has only one year in which to seek recovery against a third-party tortfeasor, after which time the cause-of-action is deemed assigned to the applicable workers’ compensation insurer or the employee’s self-insured employer. Eagle contended that: (1) Jackson’s lawsuit was untimely under A.R.S. § 23-1023(B) because it was not brought within one year of the accident; and (2) Drivers was not a proper defendant because it was not a third-party tortfeasor.

In response, Jackson argued that: (1) A.R.S. § 23-1023(B) did not apply to her complaint because, consistent with her employment contract, her workers’ compensation benefits were adjudicated and paid under Nebraska law, not Arizona’s; and (2) Drivers was included as a defendant solely for subrogation purposes under Nebraska law. In its reply, Eagle argued that no matter whether Jackson received workers’ compensation benefits in Nebraska, A.R.S. § 23-1023(B) applied because she was “entitled” to such benefits under Arizona law.

The superior court treated the motion as a motion for summary judgment and granted the motion in Eagle’s favor. Jackson then filed an appeal in the Court of Appeals.

The Court of Appeals’ Opinion. The Court of Appeals reversed and remanded (sent back) the case to the superior court for further proceedings. *Jackson v. Eagle KMC LLC*, 244 Ariz. 224 (App. 2018). It noted that Jackson argued that because she received workers’ compensation benefits in Nebraska and was not seeking more benefits in Arizona, Nebraska law should govern. Therefore, she continued, A.R.S. § 23-1023(B) was irrelevant because it applied only to third-party claims asserted by claimants who had received workers’ compensation benefits in Arizona.

The court noted that Jackson relied on two Arizona cases—*Moretto v. Samaritan Health Sys.*, 190 Ariz. 343 (App. 1997), and *Oaks v. McQuiller*, 191 Ariz. 333 (App. 1998)—as holding that A.R.S. § 23-1023(B)’s time limit does not apply if an employee has not applied for or accepted workers’ compensation benefits, even though eligible to do so. It also noted, however, that Eagle correctly argued that these cases were “not analogous to the current case as Jackson did apply for and receive workers’ compensation benefits.” Moreover, it explained that “[u]nlike *Oaks* and *Moretto*, where there was no employer or insurance carrier to reimburse, Drivers Management has a subrogation claim.” The court noted that Jackson acknowledged that Drivers had such a claim but contended that it “should be controlled by Nebraska legal authorities” because her workers’ compensation claim against Drivers “was adjudicated and awarded in Nebraska.”

The court agreed with Jackson’s position. Quoting *Quiles v. Heflin Steel Supply Co.*, 145 Ariz. 73, 77 (App. 1985), it indicated that “[w]hen compensation has been paid the law of the state of compensation should govern in third-party actions including the nature and extent of lien subrogation, and assignment rights.” Applying this rule here, the court reasoned that because “Jackson’s workers’ compensation benefits were adjudicated and paid in Nebraska,” “Nebraska law governs subrogation, lien, and assignment rights in this action.” From that, the court concluded that “the superior court erred in applying the one-year time-bar under A.R.S. § 23-1023(B) to Jackson’s third-party injury claim.” It further explained that Jackson properly named Drivers as a nominal defendant because Nebraska law required her to do so.

ISSUES:

Eagle is asking the Arizona Supreme Court to address the following issues:

- (1) “Did the court of appeals err by holding that Nebraska law governed the assignment and subrogation issues in this action brought by an injured employee against third parties, where the employee was injured in Arizona and failed to qualify for exemption from Arizona workers’ compensation law under A.R.S. § 23-904(C)?”
- (2) “Did the trial court correctly find that an employee injured in Arizona and subject to its workers’ compensation law was automatically divested of her claims against third parties pursuant to A.R.S. § 23-1023(B), where: (1) she was eligible to receive workers’ compensation benefits in Arizona; (2) she received workers’ compensation benefits, albeit in Nebraska; and (3) she failed to file suit on her claims within one year of accrual?”

This Summary was prepared by the Arizona Supreme Court Staff Attorneys’ Office solely for educational purposes. It should not be considered official commentary by the Court or any member thereof or part of any brief, memorandum, or other pleading filed in this case.