

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ARGONAUT INSURANCE COMPANY	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	No. 97-4636
	:	
I.E., INC., John W. Oren and	:	
Paul Hopkins,	:	
Defendants.	:	

**GREEN, S.J.**

**JULY 14, 1999**

**MEMORANDUM - ORDER**

Before the Court are three motions: 1) a letter motion, dated July 9, 1999, from Rudi Grueneberg, counsel for I.E., Inc. and John Oren, defendants in the above-captioned matter, for a continuance of the scheduled July 12, 1999 trial; 2) Plaintiff's motion for a protective order with respect to subpoenas served by defendant, Paul Hopkins, for production of documents; and 3) a *motion in limine* requesting that the court apply New Jersey, rather than Pennsylvania law, to the claim of fraudulent inducement brought against Defendant, Paul Hopkins. The Court held a telephone conference ON July 9, 1999, wherein counsel for the parties presented arguments on each of the above-referenced motions.

**1. Motion for Continuance of Trial**

Based upon Mr. Grueneberg's oral representations that Defendant, John Oren is still recovering from a series of Cerebral Vascular Accidents and cannot fully participate in the preparation of this case for trial, I will grant the motion for a continuance.

**2. Plaintiff's Motion for Protective Order**

The Plaintiff's Motion for Protective Order, as it relates to quashing of the subpoenae served by defendant, Paul Hopkins, for production of documents will be denied.

**3. *Motion in Limine to Resolve the Conflict of Law Issue***

The elements of a claim for fraudulent inducement are identical in New Jersey and Pennsylvania, however, the Court finds that defenses available to a party with regard to a fraudulent inducement claim are not. Because Defendant Hopkins asserts the affirmative defenses of waiver and estoppel, the Court must decide whether New Jersey or Pennsylvania law applies.

A court in diversity cases applies the conflict of law principles of the state in which it sits. Tiernan v. Devoe, 923 F.2d 1024, 1033 (3d Cir. 1991) (citing Klaxon Co. v. Stentor Elevator Mfg. Co., 313 U.S. 487, 61 S.Ct. 1020 (1941)). In conflict situations, Pennsylvania applies the law of the place that has the most significant relationship to the parties. Neville Chemical Co. v. Union Carbide Corporation, 422 F.2d 1205, 1211 (3d Cir.), cert. denied, 400 U.S. 826, 91 S.Ct. 51(1970). After review of the documents of record and the arguments presented by counsel on this issue, I find that New Jersey law must be applied .

AND NOW, this 12th day of July 1999, upon consideration of the above-referenced motions, IT IS HEREBY ORDERED THAT

1. This trial in this matter scheduled for July 12, 1999 is CONTINUED UNTIL FURTHER NOTICE. The letter of Rudi Grueneberg, counsel for defendants I.E. Inc. and John Oren, SHALL be FILED and DOCKETED ;
2. The Plaintiff's Motion for Protective Order is DENIED; and

3. The *Motion In Limine* is GRANTED whereby the Court will apply New Jersey law to the claims of fraudulent inducement brought against Defendant Paul Hopkins.

BY THE COURT:

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CLIFFORD SCOTT GREEN, S.J.