

Pennsylvanias Highest Court Holds Minimal Share of Total Revenue Enough for Venue in Philadelphia County

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The Pennsylvania Supreme Court recently issued a significant [ruling](#) that makes it easier to bring suit against large corporations in Philadelphia County even when there is no connection between that county and the underlying lawsuit.

The case, *Hangey v. Husqvarna Professional Products, Inc.*, was filed following an accident in Wayne County involving a lawn mower that was manufactured by Husqvarna and purchased in Bucks County. The injured plaintiff filed a personal injury suit in Philadelphia County against Husqvarna and other defendants and relied on Husqvarna's sale of equipment generally in that county to establish venue. The trial court granted Husqvarna's motion to transfer the case to Bucks County after discovery revealed Husqvarna's sales in Philadelphia County accounted for just 0.005% of Husqvarna's total U.S. sales. That decision was reversed by the Pennsylvania Superior Court, who sent the case back to Philadelphia County. Husqvarna then sought review by the PA Supreme Court.

Pursuant to the Pennsylvania Rules of Civil Procedure, a corporation can be sued in any county in which it "regularly conducts business." Previous courts had developed a quality and quantity test for assessing where a corporation does business. Under that test, the court would examine the type of business conducted within a county and then assess whether the amount of that business was sufficient to establish venue in that county. A number of prior courts held that when a minimal amount of a corporation's total revenue is generated in a particular county, such contacts are not sufficient to constitute "regularly conducting business" in that county and venue is not proper.

On appeal, the Supreme Court affirmed the decision sending the *Hangey* case back to Philadelphia County. The Court determined that the percentage of sales alone cannot serve as the sole factor in the regularity of business determination, holding that "a corporation may perform acts regularly' even though these acts make up a small part of its total activities." In other words, "[t]he quantity prong's requirements go to recurrence and frequency of qualifying acts occurring within the county, but the question of whether acts in a particular county are general or habitual' does not directly implicate comparison to revenue generated elsewhere in the United States."

Although the decision broadens the range of permissible venues for all corporations, it will particularly have a negative effect on large businesses that do only a small portion of business in Philadelphia County. Such entities may no longer rely on prior case law permitting transfer of suits based on a minimal amount of revenue generated in Philadelphia County.

The Supreme Court's decision in *Hangey* came despite opposition by the Chamber of Commerce of the United

States of America, Pennsylvania Chamber of Business and Industry, and Pennsylvania Medical Society, among others, which raised concerns that an unfavorable ruling would permit forum shopping in the state and allow "suit in a forum on the sole basis that plaintiff's counsel anticipates an advantage from favorable jury verdicts or sympathetic tribunals, not governing law." The decision was highlighted in the recently released annual "Judicial Hellholes" report from the American Tort Reform Association, which noted that the "Philadelphia Court of Common Pleas continues to be a prolific producer of nuclear verdicts and liability-expanding decisions. Plaintiffs from across the country flock to the Court of Common Pleas because of its reputation for excessive verdicts and its open door' policy to out-of-state plaintiffs."

The litigation attorneys at Barley Snyder are prepared to assist with any venue analysis following this recent decision. If you have any questions regarding the *Hangey* decision or how it affects your particular business, please do not hesitate to contact [Peter J. Faben](#), [Brandon R. Griest](#) or any member of the [Barley Snyder Litigation Practice Group](#).

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