

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

OCTOBER 15, 1996

NOTICE

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-0491-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

CASSANDRA A. SCOTT,

Plaintiff-Appellant,

v.

**PILOT CORPORATION and AETNA
CASUALTY AND SURETY COMPANY,**

Defendants-Respondents.

APPEAL from a judgment of the circuit court for Milwaukee County: GEORGE A. BURNS, JR., Judge. *Affirmed.*

Before Fine, Schudson and Curley, JJ.

PER CURIAM. Cassandra Scott appeals from a summary judgment in favor of Pilot Corporation and its insurers. The issue is whether Illinois law applies to this action. Pursuant to this court's order of April 2, 1996, this case was submitted to the court on the expedited appeals calendar. See RULE 809.17, STATS. We affirm.

While returning to Wisconsin on a trip from the South, Scott purchased gasoline from the Pilot Corporation filling station located near the interstate in Tuscola, Illinois. After entering the station to pay for her purchase, she slipped and fell in some water which had apparently been tracked inside from a recent rainstorm, sustaining severe injuries to her leg. She brought this action against Pilot Corporation, claiming that its negligence caused her injuries. The trial court granted summary judgment in favor of Pilot Corporation because it concluded that Illinois law applied to this action and, under that law, Pilot Corporation had not breached a duty toward Scott.

A court must use a two-part test to determine which state's law should be applied in an action where a choice-of-law question arises. The court must first "consider whether the contacts of one state to the facts of the case are so obviously limited and minimal that application of that state's law constitutes officious intermeddling." *American Standard Ins. Co. v. Cleveland*, 124 Wis.2d 258, 263, 369 N.W.2d 168, 171 (Ct. App. 1985). Next, "if no officious intermeddling would result, then [the court must] apply the choice-influencing considerations adopted in *Heath v. Zellmer*, 35 Wis.2d 578, 596, 151 N.W.2d 664, 672 (1967)." *Id.* Those factors are: (1) predictability of results; (2) maintenance of interstate order; (3) simplification of the judicial task; (4) advancement of the forum state's governmental interest; and (5) application of the better rule of law. *Id.* at 263, 369 N.W.2d at 171-72.

The only connection between this cause of action and Wisconsin is the fact that Scott is a Wisconsin resident and that Pilot Corporation, by coincidence, also conducts business in Wisconsin. The accident occurred in Illinois in a building owned by Pilot Corporation in that state. The burden of Pilot Corporation having to accommodate a foreign jurisdiction's rule of liability outweighs whatever minimal interest that Wisconsin might have as a result of Scott's residence here. Otherwise, Pilot Corporation's duty under the law would vary with each customer who entered the premises depending on his or her state of residence. Illinois law should control the legal responsibilities of an Illinois property owner to maintain its facility there and any potential liability arising from an accident which occurs in that state. As we previously stated, in a case in which a Wisconsin resident attempted to apply Wisconsin law to an accident that occurred in Arizona:

The duty of a property owner to maintain his property should not vary with the residence of the person who enters the building. To apply Wisconsin law would be to attempt to say that Wisconsin has some legitimate interest in regulating property in Arizona. To say so would also violate the most basic principles of federalism.

Burns v. Geres, 140 Wis.2d 197, 202, 409 N.W.2d 428, 430-31 (Ct. App. 1987). Under the choice of law rules, the trial court correctly applied Illinois law.

By the Court.—Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.