STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Court Docket No. Cum-25-313

ROBERTO VALMONT-OLIVIER
Appellee

v.

ENVIROVANTAGE, INC.
Appellant

On Appeal from the Superior Court, Cumberland County
Docket No. PORSC-CV-2023-00207

REPLY BRIEF OF APPELLANT ENVIROVANTAGE, INC.

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I. ARGUMENT

A. No deference to the trial court's findings is warranted.

Appellee Roberto Valmont-Olivier begins by setting forth the trial court's factual findings and arguing that those findings will be affirmed if there is competent evidence in the record to support them, even if the evidence might support alternative findings of fact. (Red Br. at 11.) He contends that the trial court's factual findings are entitled to deference and that Envirovantage must show that the evidence compels a contrary finding. (*Id.*) That is wrong. In reviewing the denial of a motion for summary judgment, this Court draws the facts from the summary judgment record and views them in the light most favorable to Envirovantage as the nonprevailing party. *See Carney v. Hancock Cnty.*, 2025 ME 36, ¶ 2, 334 A.3d 717; *Fama v. Bob's LLC*, 2024 ME 73, ¶ 2, 322 A.3d 1247; *Dorsey v. N. Light Health*, 2022 ME 62, ¶ 2, 288 A.3d 386. This appeal involves questions of law which this Court reviews de novo. *See Collins v. Trius, Inc.*, 663 A.2d 570, 572 (Me. 1995).

B. There is no common domicile between these parties.

In determining the applicable law, Valmont-Olivier agrees that the general rule is that "the local law of the state where the injury occurred determines the rights and liabilities of the parties, unless, with respect to the particular issue, some other state has a more significant relationship . . . to the

occurrence and the parties . . . .” (Red Br. at 12 (quoting *Flaherty v. Allstate Ins. Co.*, 2003 ME 72, ¶ 16, 822 A.2d 1159).)[1] The starting point, then, is that Maine law applies. And that presumption is only overcome where another state has a more significant relationship to the occurrence and the parties.

Valmont-Olivier focuses on situations where the parties share a common domicile, arguing that this favors application of the common jurisdiction’s law. (Red Br. at 13.) But there is no common domicile between the parties here. Valmont-Olivier, while not a citizen of Massachusetts, lives in an apartment there. (A. 19, 49.) Envirovantage is a New Hampshire corporation doing business in Maine. (A. 19.) Enviro Staffing is not a party to this litigation, but even if they were, they are a Florida staffing firm authorized to do business in Massachusetts. (A. 49-50.) Residence is therefore “of little assistance in th[e] analysis”—these “circumstances negate the claim that [Massachusetts] law should have primacy.” *Piche v. Nugent*, No. CIV. 05-82-B-K, 2005 WL 2428156, at *5 (D. Me. Sept. 30, 2005).

His emphasis on this being loss-allocation rather than conduct-regulation is also tied to situations where there is a common domicile. *See Collins*, 663 A.2d 570, 573 (Me. 1995) (“The superiority of the common

[1] Notably, Valmont-Olivier omits the emphasis on the word “unless” that is used in the sources he cites.

domicile as the source of law governing loss-distribution issues is evident."); *Quirion v. Veilleux*, No. CV-10-016, 2012 WL 1521500, at *3 (Me. Super. Feb. 03, 2012) ("When parties to litigation share a common domicile, Maine courts consider this a significant contact favoring application of the common jurisdiction's law. This is especially true when the area of law to be applied serves the purpose of loss-allocation, rather than conduct-regulation.") (citation omitted). *See* Red Br. 13-14 (citing *Collins* & *Quirion*).

Since there is no common domicile, the distinction between loss-allocating and conduct-regulating is not relevant to the choice of law analysis. *See, e.g.*, *Piche*, 2005 WL 2428156, at *5 n.6 (where parties were not residents of New Hampshire, court held that "even if the State of Maine's interest is reduced to some degree by characterizing the statute at issue as a loss-allocation rule rather than a conduct -regulating rule, I cannot find on the facts of this case that New Hampshire's interest is any greater than Maine's and, therefore, I default to local law"); *Fortin v. Les Enters. Pascal Rodrigue, Inc.*, No. CIV.A. CV-02-015, 2002 WL 31235990, at *2–4 & n.4 (Me. Super. Sept. 10, 2002) (distinguishing *Collins* where all parties were Canadian residents and concluding that Maine had "a superior interest in having its loss-allocation policy and laws applied"). In the absence of a common domicile elsewhere, Maine's interest in ensuring predictable and equitable allocation of losses is

substantial. Valmont-Olivier's characterization of this as loss-allocating does not undermine the application of Maine law.

In sum, the record shows that the injury, conduct, and work all occurred in Maine and on a Maine job site. Though Valmont-Olivier lived in Massachusetts (A. 19, 49), he was staying at a hotel in Maine while working in Maine (A. 50). Envirovantage is a New Hampshire resident (A. 19), but it was doing business in Maine, had a job site in Maine, and had a superintendent and foreman working on the job site in Maine during the alleged injury (A. 45). Under these circumstances, it cannot be said that Massachusetts has a more significant relationship to the occurrence and the parties. As set forth in Envirovantage's brief, all of the Restatement factors favor applying Maine law.

C. Envirovantage was an insured party liable for payment.

Valmont-Olivier contends that where there is no alternate employment endorsement, Envirovantage cannot be an insured party liable for payment under Massachusetts's workers' compensation law. Not so. Section 18 requires only that there be some agreement between the parties that Envirovantage be liable. *See* Mass. Gen. Laws Ann. ch. 152, § 18. And here, the parties agreed in the general staffing agreement that Envirovantage would pay for workers' compensation coverage. (A. 77.)

Valmont-Olivier relies on *Robidoux v. Muholland*, 642 F.3d 20 (1st Cir. 2011), arguing that Envirovantage's reimbursements to Enviro Staffing cannot demonstrate that Envirovantage is an insured party. In that case, the court reasoned that "[a]lthough James Construction may have paid a rate that effectively reimbursed Labor Systems for that insurance, James Construction does not point to any authority suggesting that such an arrangement equates to providing workers' compensation insurance and being liable for payment of workers' compensation." *Robidoux*, 642 F.3d at 24 (alterations and quotation marks omitted).

In the nearly 15 years since *Robidoux* was decided, courts within the First Circuit have concluded that where a special employer reimburses a general employer for the cost of workers' compensation insurance and especially where it has own policy providing workers' compensation coverage, the special employer is liable for payment for purposes of Section 18. *See, e.g.*, *Moura v. Cannon*, No. CV 4:17-40166-TSH, 2021 WL 4422964, at *9 (D. Mass. Sept. 27, 2021) ("The fact that Cannon was required to, and did, reimburse Prime for the cost of Moura's workers' compensation insurance supports a conclusion that he was covered by the endorsement, despite not being named. Accordingly, . . . I conclude that the endorsement constitutes an agreement between Cannon and Prime such that Cannon was liable for the

payment of workers' compensation.") (citation omitted); *Fleming v. Shaheen Bros.,* 71 Mass. App. Ct. 223, 229, 881 N.E.2d 1143, 1148 (2008) ("The employer need not actually pay the insurance premiums to benefit from the workers' compensation exclusivity bar. Here, Shaheen carried its own workers' compensation insurance which it paid for as the named insured. It also paid NBS the cost of additional workers' compensation coverage for those Shaheen employees paid through NBS.") (citation omitted); *Nutter v. Partners Healthcare System, Inc.,* No. 1881CV02093, 2021 WL 11717011, at *4 (Mass. Super. Aug. 13, 2021) ("Partners paid Sartell Electrical the cost of workers' compensation coverage for Nutter, Sartell Electrical's workers' compensation insurer paid Nutter benefits after his accident, and Partners had its own workers' compensation policy as a self-insured entity. Nutter has failed to cite any case law suggesting that the holding in *Fleming* should not apply to this action. Therefore, Partners has shown that it is an insured person liable for the payment of compensation."). Envirovantage was therefore liable for payment and is immune under Massachusetts' workers' compensation law.

II. CONCLUSION

Valmont-Olivier's arguments are unpersuasive. This Court should vacate the trial court's order and remand to the trial court to grant Envirovantage's motion for summary judgment.

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CERTIFICATE OF SERVICE

I, Jeffrey T. Edwards, attorney for Appellant, Envirovantage, Inc., certify that I will, upon notification of approval of this brief by the Court, email and mail (by U.S. mail) copies of this brief to the attorney listed below:

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Dated: November 21, 2025

/s/ Jeffrey T. Edwards
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