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A Legal Newsletter

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**The Ashdod Magistrate Court - An Insurance Company May File A Claim In Israel Against
Foreign Defendants, The Owners Of A Ship Used To Transport Goods To Israel**

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Background:

Israeli legislation created a special arrangement which allows for claims to be filed against individuals who are not within the territory of the State of Israel. The plaintiff files a service of process outside the jurisdiction request, and if accepted, the process will commence in Israel *ex parte*, with only the plaintiff present. This procedure is regulated by regulation 500 of the Civil Procedure Regulations, 1984, which establishes ten sub-alternatives for obtaining service outside the jurisdiction.

Case Facts:

In September 2015, a cargo of decorative MDF panels was loaded upon the LUCY BORCHARD LINES ship in Venice port, and transported to Ashdod Port. Moisture damage was detected in cargo in close proximity to its arrival in Ashdod.

A document which proves the decorative panels were loaded onto the ship, as well as confirmation from the Register of Ships that the ship is owned by the defendants, were submitted with the service of process outside the jurisdiction request, filed under regulation 500 (10) and (5) of the Civil Procedure Regulations.

The Court's Ruling:

A plaintiff which submits a request for service of process outside the jurisdiction must note at least one of the alternatives which permit service outside the jurisdiction. The court first examined whether the request meets the preliminary requirements of regulation 500 (5) of the Civil Procedure Regulations, which allows for service in cases of breach of contract within Israel. The court ruled that the plaintiff proved through the arguments presented in its Statement of Claim and through an affidavit that there is alleged evidence of the cargo being damaged in route.

The court then examined whether the request meets the preliminary requirements of regulation 500 (10) of the Civil Procedure Regulations according to the standards established by case law. The court must therefore examine both the severity and essence of the claim against the Israeli defendant, and the severity and essence of the claim against the foreign defendant, to ensure the claim was not filed against the Israeli defendant as a means to add the foreign defendant as a party to the lawsuit. In this case, the court ruled that the claim against the Israeli defendant was submitted properly, as it is well based. In addition, in light of the fact that it is impossible to know at the stage of request submission which party is liable for the damage to the cargo, the court deemed it proper to allow the addition of the foreign defendant as a party to the lawsuit.

The plaintiff proved that its case falls under one of the alternatives listed in regulation 500 of the Civil Procedure Regulations. Even so, the court may invoke its discretion whether or not to permit service outside the jurisdiction, taking into consideration the proper forum principle. In addition, the plaintiff must prove that there is good cause for holding the legal proceedings in an Israeli forum, so that the principle of sovereignty.

In this case, the court ruled that the proper forum seems to be Israel, as the plaintiff is an Israeli company based in Israel, the cargo was transported in Israel, the damage was discovered in Israel, and some of the potentially liable parties are Israeli.

In summary, the court ruled that in light of the above, the preliminary requirements of regulation 500 (5) and 500 (10) of the Civil Procedure Regulations were met, and therefore a service of process outside the jurisdiction of the State of Israel is permitted.

[TA 27147-09-16, **Clal Insurance Company Ltd. V. Gold Bond Conterm Ltd. & Others**, presiding judge: Yehuda Lieblein]

The above review is a summary. The information presented is for informative purposes only, and does not constitute legal advice.

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