

BENNETT, BRICKLIN & SALTZBURG LLC

Subject: Summary of Cases Reported in Pa. Law Weekly of October 12, 2009

Date: October 15, 2009

Federal Practice - Waiver of Defense of Lack of Personal Jurisdiction

Robbins Motor Transportation, Inc. v. Translink, U.S.D.C., E.D. Pa., opinion by Pollak, J., filed September 30, 2009.

This case arose from a dispute regarding the weight of two modules that plaintiff had hauled pursuant to a contract. In an earlier opinion, the court granted summary judgment to all defendants except Translink and granted Translink's motion for summary judgment on all claims except for a breach of contract claim. Translink then filed a separate motion to dismiss that claim for lack of personal jurisdiction upon it.

Denying the motion, the court noted that in Bel-Ray Co. v. Chemrite, 181 F.3d 436 (1999), the Third Circuit had held that a party waives challenges to personal jurisdiction when it files and proceeds to litigate a motion for summary judgment before securing a personal jurisdictional determination, even if the personal jurisdiction defense is properly asserted in the parties' answer.

JPF/mee