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NJ State Courts Lack Authority to Enforce Subpoenas Issued to Federal Agencies and Employees

State court litigants have witnessed their share of discovery abuses, where opposing parties indiscriminately (and sometimes improperly) serve subpoenas on federal agencies in the hopes of finding information, or just causing trouble.

The Appellate Division delivered some good news in *Ouritski v. Richard Catena Auto Wholesalers*, A-2209-09T3 (Oct. 20, 2010), holding that a state court has no authority to enforce a subpoena issued to a federal agency. After a judgment was entered against it, Richard Catena Auto Wholesalers tried to enforce a subpoena served on the Customs and Border Protection unit of the United States Department of Homeland Security. Catena maintained that Customs had evidence bearing on the merits of its defense. The trial court determined that it lacked the authority to compel Customs to produce documents.

When the Appellate Division reviewed the matter, it determined two things. First, the court held that the subpoena was procedurally flawed. Federal agencies are entitled to regulate the manner in which they respond to requests for information. Catena was out of luck, because it had not complied with Customs' requirements for obtaining information in conjunction with third-party civil actions.

Second, and most important, the court held that the doctrine of sovereign immunity relieved Customs of any obligation to respond to the subpoena. Simply stated, a state court cannot tell a federal agency what to do. The doctrine applies to a subpoena because it is considered "process," just like a summons and complaint. The Appellate Division found that the United States never waived its immunity from state court suits and can be sued only in federal court. Accordingly, state courts lack authority to issue orders or process against federal agencies and employees.

The ruling is important because it is one of few bright-line limitations that New Jersey courts have imposed on conducting discovery.

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