



Alerts

Legal Malpractice Case Dismissed for Lack of Personal Jurisdiction under Illinois Long Arm Statute

November 30, 2017

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Brook, as Trustee of the David North II Trust, successor to the assets of Cortina Financial, Inc. v. McCormley, et al., No. 16-4255 (7th Cir. 2017)

Brief Summary

The Seventh Circuit affirmed the district court's dismissal of a legal malpractice case based on a lack of personal jurisdiction of the Illinois federal court over an Arizona law firm.

Complete Summary

In 2001, Brook requested that Lawrence McCormley and his Arizona law firm, Tiffany & Bosco (the "Firm"), represent Cortina Financial, Inc. ("Cortina"), a now-dissolved corporation that was wholly-owned by the David North II Trust (the "Trust") in litigation that arose from a dispute over a ground lease created when Cortina sold one of four plots of land the company owned in Arizona. The suit was dismissed in 2002.

In 2005, and again in 2013, Cortina sought additional legal advice from the Firm to analyze the viability of claims related to the same ground lease under Arizona's various statutory limitation periods. In 2014, Cortina requested that the Firm initiate a nonjudicial foreclosure on the property. Although the Firm and Cortina exchanged phone calls and correspondence between Arizona and Illinois, all in-person meetings occurred in Arizona. The Firm ultimately decided that the firm's involvement in the nonjudicial foreclosure would pose conflict of interest issues and declined the opportunity to represent Cortina.

Cortina filed suit against the Firm in the Northern District of Illinois alleging legal malpractice, breach of contract, and breach of fiduciary duty. Cortina later substituted in Brook as the plaintiff through an amended complaint. The district court dismissed Brook's amended complaint for lack of personal jurisdiction, pointing out that the activities of the Firm were strictly conducted in Arizona. Additionally, the court cited the lack of evidence that the Firm reached out to or solicited Cortina, the Trust, or Brook to enter into the relationship.

Illinois lacked requisite contacts with the Firm so as to establish personal jurisdiction, where: (1) although plaintiff (Illinois citizen) sought out the Firm's legal services, the subject matter of the legal representation concerned land located in Arizona that was subject to Arizona law; and (2) all business done on behalf of plaintiff was done in Arizona by Arizona lawyers. The fact that the

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contract governing the attorney-client relationship, attorney fees arising out of that contract and plaintiff's recognition of the injury may have had ties to Illinois did not require a different result.

On appeal, the court determined that the Firm did not have sufficient minimum contacts with Illinois such that it "should reasonably anticipate being haled into court there." *Int'l Shoe Co. v. Wash.*, 326 U.S. 310, 316 (1945); *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985) (*quoting World-Wide Volkswagen Corp.*, 444 U.S. at 297). It found that the plaintiff did not establish specific jurisdiction, which is based on the plaintiff's claims arising out of or related to the defendant's contacts with the forum.

Noting that Specific Jurisdiction requires a defendant's contacts with the forum State to be directly related to the conduct pertaining to the claims asserted, the court rejected Brook's contention that the court had specific jurisdiction over the Firm. The court was not persuaded by Brook's assertion that jurisdiction was based on correspondence from Arizona, telephone calls, the contract governing the attorney-client relationship, attorneys' fees sent from Illinois, and Brook having felt the injury in Illinois. It rejected what it characterized as Brook's attempt to use the Firm's relationship with himself to establish personal jurisdiction, not the Firm's relationship with Illinois.

The court found that the Firm's tenuous contacts with Illinois were insufficient to establish personal jurisdiction. The Firm never sought out nor conducted business in Illinois; rather Cortina sought out legal services from the Firm. The subject matter of the representation was land in Arizona subject to Arizona law. All business on behalf of Cortina was done in Arizona by the Arizona based law firm with Arizona lawyers. The court concluded that because Brook, a substituted plaintiff, was the only link between the Firm and Illinois, Brook failed to establish that the district court has personal jurisdiction over the Firm. The court affirmed the district court's dismissal for lack of personal jurisdiction.

Significance of Decision

This decision enforces the requirement of necessary links between a law firm and the forum state that are sufficient to establish specific personal jurisdiction over the law firm, protecting law firms from being sued in states merely because the plaintiff, not the law firm, has contacts there.

For more information, please contact Terry McAvoy or Tom McGarry.

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