The issue of where an attorney is practicing law is a vexing one in light of modern technology which allows attorneys and their clients to be located just about anywhere in the world. The Covid-19 pandemic has exacerbated matters because so many lawyers and clients are working remotely. Where an attorney is practicing is relevant not only to the question of licensing but also to the question of where the attorney may be sued for malpractice.

In Jacqueline B. v. Rawls Law Group, 2021 Cal. App. LEXIS 705, the plaintiff sued a Virginia law firm for alleged malpractice in connection with its representation of the plaintiff in a federal tort claim arising out of injuries suffered in California. The Virginia law firm had mailed its retainer agreement to the plaintiff in California. In addition, the law firm's website stated that it had a "nationwide" practice that handled Federal Tort Claims Act cases all over the country and listed several examples of cases that had resolved favorably to the firm’s clients. The Court of Appeal nonetheless concluded that California cannot exert specific jurisdiction...
because (1) the law firm and its lawyers did nothing to purposefully avail themselves of the benefits of doing business in California, and (2) the allegedly bad advice underlying the malpractice lawsuit was not sufficiently related to the firm’s and its lawyers’ contacts with California.

The Court of Appeal noted several facts in support of its conclusion, including the fact that the plaintiff left California on the very day that the plaintiff faxed her signed agreement to the firm, a fact known the lawyers who believed that the plaintiff was no longer living in California (they had also performed a "due diligence" search that indicated her primary residence was in Texas). The plaintiff was not present in California while her lawyers negotiated with the government's lawyer in Phoenix, Arizona. During this period, no one from the firm traveled to California to conduct any investigation, met anyone in California, or conferred with any attorneys in California (except for one phone call to California).

Because the plaintiff did not argue that the California court had general jurisdiction over the law firm, the Court of Appeal confined its analysis to whether the court had specific jurisdiction. The Court concluded that notwithstanding the fact that some factors pointed to a contrary conclusion, the lawyers did not purposely avail themselves of the "benefits" of a California forum and that no link existed between lawyers’ allegedly tortious conduct and any contacts they might have with California.

It is important to note that this case did not address whether the lawyers had engaged in the unauthorized practice of law in California. However, it a finding that a lawyer had not purposely availed herself or himself of the benefits of a jurisdiction would seem consistent with the conclusion that the lawyer also had not engaged in the unauthorized practice of law in that jurisdiction.

Finally, it is somewhat ironic that the lawyers had tried to have the case removed to federal court on the basis of diversity citizenship. The U.S. District Court, however, found that the lawyers had not adequately alleged the plaintiff's citizenship in California. Jacqueline B. v. Rawls Law Grp., P.C., 2020 U.S. Dist. LEXIS 28253.

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