

## 7th Circ. Won't Revive Ex-Trump Staffer's Defamation Suit

By **Lauraann Wood**

*Law360 (June 21, 2021, 8:59 PM EDT)* -- The Seventh Circuit on Monday upheld the dismissal of claims that Perkins Coie LLP and the Democratic National Committee disseminated false information about a former Donald Trump campaign adviser, deeming the law firm "stateless" for purposes of federal court jurisdiction.

While a lower court dismissed former campaign adviser Carter Page's lawsuit on personal jurisdiction grounds, a three-judge Seventh Circuit panel took the subject-matter jurisdiction route and found that Perkins Coie's status as a stateless party in Page's suit "destroys complete diversity and deprived the district court of the power to hear this case." Because dismissal on that ground can't be with prejudice, the panel modified the lower court's dismissal to give Page a chance to amend his claims.

Diversity would exist if the court could limit its analysis to just the parties in the suit, but a partnership's citizenship is determined by each individual partner's citizenship, the panel said. The parties identified several Perkins Coie partners domiciled in China in supplemental briefing, and those partners' stateless status means the partnership is also itself stateless, the panel said.

The U.S. Supreme Court has previously held both that a stateless citizen cannot be sued in diversity and that a partnership's citizenship depends on the citizenship of each individual partner, but it has never explicitly answered whether a partner's stateless status must be attributed to the partnership, the panel said. Both the high court and the Seventh Circuit have come close to reaching that conclusion, but the circuit has "never squarely resolved the issue when it was outcome determinative," the panel said.

"Doing so now, we hold that a partnership made up of at least one stateless citizen is itself stateless and cannot be sued in diversity," it held.

The lower court found in August that it lacked personal jurisdiction to hear Page's claims because he failed to establish that either the firm or the national committee make Illinois their "home."

The lower court didn't abuse its discretion by initially focusing on questions of personal jurisdiction before addressing subject matter jurisdiction, the panel said. But the court chose a different path to resolving the parties' appeal because it was "important to clarify the attribution of statelessness question presented by the facts of this case," the panel said.

Page made valid policy arguments when he urged the court to revive his suit, the panel said. For instance, instead of linking a partner's stateless status to the partnership, perhaps "the better approach

would be to simply consider stateless partners as a nullity," the panel said. But the court must follow the law as enacted by Congress and interpreted by the Supreme Court, and the terms of the diversity jurisdiction statute require that each individual partner be subject to diversity jurisdiction, the panel said.

"If this outcome seems to defy modern commercial realities, the responsibility for amending [the statute] — updating it to account for today's forms of business associations — rests with Congress," the panel said.

In his complaint, Page claimed that in September 2016, during that year's heated presidential campaign, he catapulted into prominence after media reports described references to Page in the now-notorious dossier of opposition research concerning then-candidate Donald Trump.

The dossier asserted that Page met with two Russian officials in his capacity as a "foreign affairs adviser" to the Trump campaign, and Page claims that he "had not and to this day has not met with either of those individuals." He further alleged that even though the DNC and its attorneys knew the information in the dossier about him was false, they still directed a private investigator to disseminate the dossier to media outlets.

Representatives for the parties didn't immediately respond Monday to a request for comment.

Page is represented by Brian J. Murray of Rathje Woodward LLC and John M. Pierce and Andrew E. Calderón of Pierce Bainbridge PC.

The DNC and Perkins Coie are represented by Terra Reynolds, Stephen P. Barry, Nicholas L. McQuaid and Matthew S. Salerno of Latham & Watkins LLP.

The case is Page et al. v. Democratic National Committee et al., case number 1:20-cv-00671, in the U.S. District Court for the Northern District of Illinois.

--Editing by Kelly Duncan.