

## Michael Lambert in MediaLawLetter: ‘Texas Federal Courts Analyze Personal Jurisdiction in Online Defamation Cases’

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**PRACTICES** Media Entertainment and Sports, Intellectual Property, Copyright, Intellectual Property Litigation, Media and Entertainment Litigation

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[Michael Lambert](#), an associate in the firm’s Media, Entertainment and First Amendment Practice Group, wrote on article that was featured in the Media Law Resource Center’s latest *MediaLawLetter*.

Here is an excerpt:

Texas federal courts have sent a clear message to those considering filing a defamation suit over online statements – personal jurisdiction only exists if the statements concern the forum or the defendant is located in the state. In December, the Fifth Circuit held in *Johnson v. HuffPost* that a non-resident website accessible in Texas that collects data from, and sells online ads and merchandise to, residents in Texas is not subject to personal jurisdiction there. Specific jurisdiction over online statements, instead, requires the forum to be the “focal point” of the alleged libel and the harm suffered.

In January, the Eastern District of Texas rejected similar arguments that operating an “active website” and YouTube channel, publishing statements on Twitter, and soliciting subscriptions in Texas conveyed specific jurisdiction in *Nunes v. NBCU*. There, too, the statements at issue did not concern Texas. The court also held that general jurisdiction all but demands a defendant be located in the forum, even if it has affiliates in the state, and declined jurisdictional discovery because it would be fruitless.

### ***Johnson v. HuffPost***

On December 23, 2021, the Fifth Circuit, 2-1, affirmed the dismissal of conservative activist Charles Johnson’s defamation claim against *TheHuffingtonPost.com* (*HuffPost*) because Johnson failed to adequately plead the “key question” in libel cases—that the forum state was “the focal point” of the alleged libel and the harm suffered. *Johnson v. TheHuffingtonPost.com, Inc.*, 21 F.4th 314, 318 (5th Cir. 2021) (quoting *Calder v. Jones*, 465 U.S. 783, 789 (1984)). The *HuffPost* article, which identified him as “noted Holocaust denier and white nationalist,” neither concerned Texas nor relied on any Texas sources. It, instead, involved a meeting between Johnson and two members of Congress in Washington, D.C.

Our decision in *Revell* requires dismissal. *HuffPost* is interactive, but its story about Johnson has no ties to Texas. The story does not mention Texas. It recounts a meeting that took place outside Texas, and it used no Texan sources. Accordingly, we lack jurisdiction over *HuffPost* with respect to Johnson's libel claim.

*Id.* at 319 (citing *Revell v. Lidov*, 317 F.3d 467 (5th Cir. 2002)).

Johnson's allegations—that *HuffPost* was “visible” in Texas, sells ads and merchandise to Texans, contracted with advertisers from Texas, and collects data from viewers in Texas—failed to meet the specific jurisdiction threshold. *Id.* at 317.

Excerpted from *MediaLawLetter*. To read the full article, click [here](#).