No. 20-2781

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

CARTER PAGE, an individual; GLOBAL ENERGY CAPITAL LLC, a limited liability company; and GLOBAL NATURAL GAS VENTURES LLC, a limited liability company,

Plaintiffs-Appellants,

v.

DEMOCRATIC NATIONAL COMMITTEE; DNC SERVICES CORPORATION; PERKINS COIE LLP; MARC ELIAS; and MICHAEL SUSSMANN,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Illinois
Case No. 1:20-cv-00671
The Honorable Harry D. Leinenweber

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February 16, 2020

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CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Appellate Court No: 20-2781

Short Caption: Carter Page, et al. v. Democratic National Committee, et al.

To enable the judges to determine whether recusal is necessary or appropriate, an attorney for a non-governmental party or amicus curiae, or a private attorney representing a government party, must furnish a disclosure statement providing the following information in compliance with Circuit Rule 26.1 and Fed. R. App. P. 26.1.

The Court prefers that the disclosure statement be filed immediately following docketing; but, the disclosure statement must be filed within 21 days of docketing or upon the filing of a motion, response, petition, or answer in this court, whichever occurs first. Attorneys are required to file an amended statement to reflect any material changes in the required information. The text of the statement must also be included in front of the table of contents of the party's main brief. Counsel is required to complete the entire statement and to use N/A for any information that is not applicable if this form is used.

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(1) The full name of every party that the attorney represents in the case (if the party is a corporation, you must provide the corporate disclosure information required by Fed. R. App. P 26.1 by completing item #3):

Defendants-Appellees Democratic National Committee, DNC Services Corporation, Perkins Coie LLP, Michael Sussmann, Marc E. Elias

(2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:

Latham & Watkins LLP

(3) If the party or amicus is a corporation:

i) Identify all its parent corporations, if any; and

N/A

ii) list any publicly held company that owns 10% or more of the party's or amicus' stock:

N/A

Attorney's Signature: /s/ Terra Reynolds Date: February 16, 2021

Attorney's Printed Name: Terra Reynolds

Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). **Yes** X **No** ___

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N/A

Attorney's Signature: /s/ Stephen P. Barry Date: February 16, 2021

Attorney's Printed Name: Stephen P. Barry

Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). **Yes** ___ **No** X

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JURISDICTIONAL STATEMENT

The Amended Jurisdictional Statement filed by Plaintiffs-Appellants Carter Page ("Page"), Global Energy Capital LLC ("Global Energy"), and Global Natural Gas Ventures LLC ("Global Natural Gas") (collectively, "Plaintiffs"), ECF No. 20, is not complete and correct, and contains improper argument. Defendants-Appellees the Democratic National Committee and DNC Services Corporation (together, the "DNC"), Perkins Coie LLP ("Perkins Coie"), Marc Elias, and Michael Sussmann (collectively, "Defendants") set forth below a complete and correct statement.

A. Statement of Appellate Jurisdiction

On August 17, 2020, the Honorable Harry D. Leinenweber, U.S. District Court Judge of the Northern District of Illinois, entered an Order and final judgment dismissing Plaintiffs' Complaint for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2). A4-14. Plaintiffs filed a Notice of Appeal on September 15, 2020. A1-3. This Court has jurisdiction under 28 U.S.C. § 1291.

B. Statement of Subject-Matter Jurisdiction

Plaintiffs do not assert claims pursuant to any provision of the U.S. Constitution or federal statute. Plaintiffs assert that federal subject-

matter jurisdiction exists based on the diverse citizenship of the parties under 28 U.S.C. § 1332(a)(3). ECF No. 18 at 2. As detailed below and in the declarations attached hereto as Exhibits 1, 2, and 3, however, three Perkins Coie partners are "stateless" U.S. citizens domiciled in China. That statelessness is imputed to Perkins Coie and forecloses the existence of complete diversity of citizenship in this case. *See infra* Section III.

Plaintiffs. Carter Page is a natural person who was domiciled in Oklahoma as of January 30, 2020. A25; ECF No. 20 at 3. He is the sole member of Global Energy and Global Natural Gas, limited liability companies registered in Oklahoma. *Id.*

Defendants. The Democratic National Committee is a non-profit corporation incorporated and headquartered in Washington, D.C. and registered with the Federal Election Commission as DNC Services Corp./Dem. Nat'l Committee. Marc Elias and Michael Sussmann are natural persons domiciled in Virginia and Washington, D.C., respectively.

Perkins Coie is a limited liability partnership with its principal place of business in Seattle, Washington. Perkins Coie's citizenship is

determined by the citizenship of its partners. *See Cosgrove v. Bartolotta*, 150 F.3d 729, 731 (7th Cir. 1998). Plaintiffs' Amended Jurisdictional Statement purports to list the "members" of Perkins Coie, but fails to distinguish between the firm's corporate and individual partners. ECF No. 20 at 4-9. As of January 30, 2020, the Perkins Coie partnership comprised (i) 10 professional corporations, (ii) a limited liability company (Perkins Coie LLC) with 80 members, and (iii) 59 individual partners—all listed in Tables A-C attached hereto. As to the first category, a corporation is a citizen of the state (1) in which it is incorporated and (2) where it has its principal place of business. 28 U.S.C. § 1332(c)(1). Table A identifies the state of incorporation and principal place of business of each professional corporation that was a Perkins Coie partner when this action was filed.

As to the second category, the citizenship of a limited liability company is determined by the citizenship of its individual members. *See Cosgrove*, 150 F.3d at 731. Perkins Coie LLC, which is a partner of Perkins Coie, included the members identified by name and domicile in Table B at the time this case was filed.

Finally, the 59 natural persons who were Perkins Coie partners as of January 30, 2020 are identified by name and domicile in Table C. As indicated in Table C, three such partners—Louise Lu, Scott Palmer, and James Zimmerman—are American citizens who, at the time litigation commenced, were domiciled in China and not in any U.S. state. Exs. 1-3. Ms. Lu, a partner in Perkins Coie's Shanghai office, is a dual citizen of the United States and Taiwan who has been domiciled in China since 2019. Ex. 1. Mr. Palmer, Managing Partner of Perkins Coie's Beijing office, is an American citizen who established domicile in China in or around 2002. Ex. 2. Mr. Zimmerman, a partner in the firm's Beijing office, is likewise an American citizen, who established domicile in China in or around 1998. Ex. 3. Neither Ms. Lu, Mr. Palmer, nor Mr. Zimmerman has established any other domicile in the United States or elsewhere since becoming a Chinese domiciliary. *See Perez v. K & B Transp., Inc.*, 967 F.3d 651, 655 (7th Cir. 2020) ("A domicile once acquired is presumed to continue until it is shown to have changed." (citation omitted)). And, as discussed further below, *see infra* Section III, the foreign domicile of these three Perkins Coie partners precludes diversity jurisdiction in this case.

STATEMENT OF THE ISSUES

1. Whether the Complaint fails to adequately allege facts establishing specific personal jurisdiction over Defendants in Illinois.

2. Whether the district court properly exercised its discretion in denying Plaintiffs' request for jurisdictional discovery.

STATEMENT OF THE CASE

A. The Parties

Page describes himself as a "foreign policy scholar and businessman" who served on then-candidate Donald J. Trump's foreign policy advisory committee in 2016. A5; A23 ¶ 2; A28 ¶ 31. Page is the sole member of Global Energy and Global Natural Gas, Oklahoma-based companies allegedly specializing in energy sector investments and advising in emerging markets, including Russia. A5.

The DNC is a Washington, D.C.-based national committee dedicated to electing local, state, and national candidates of the Democratic Party to public office. A5-6; A25 ¶ 14. Perkins Coie is an international law firm with its principal place of business in Seattle, Washington. A6; A26 ¶ 15. And Mr. Elias and Mr. Sussmann are

Perkins Coie partners who work in the firm's Washington, D.C. office. A6; A26 ¶¶ 16-17; Appellants' Br. 5.[1] Neither individual is domiciled in Illinois. A6; A26 ¶ 18.

B. The Illinois Complaint's Insufficient Allegations

According to the Complaint, in April 2016, Defendants engaged a private investigative firm, Fusion GPS, which in turn retained an independent contractor, Christopher Steele, to conduct political opposition research in connection with the 2016 presidential election—including "research into Dr. Page, Global Energy, and Global Natural Gas." A29-31 ¶¶ 40-41, 46-47. Plaintiffs allege that Steele and Fusion GPS compiled a collection of investigative reports colloquially known as the "Steele Dossier" that included a July 29, 2016 memorandum titled Company Intelligence Report 2016/94—which compilation Fusion GPS then "shared . . . with the press." A30-32 ¶¶ 48, 52. Specifically, Steele and a Fusion GPS representative allegedly met with a Yahoo! News reporter in September 2016 to discuss purported "misinformation from

[1] Messrs. Elias and Sussmann are not direct partners of Perkins Coie LLP, but are instead shareholders of Perkins Coie D.C., P.C.—which in turn is a partner of Perkins Coie. Both individuals hold the title of "partner" within the firm.

the Steele Dossier" related to Page, which ultimately resulted in the publication of the news article animating the defamation claims asserted in this lawsuit. A32-33 ¶¶ 57, 60. The Complaint does not allege any Defendant's direct involvement in the publication of the Steele Dossier or any related news article. Instead, Plaintiffs allege that "Perkins Coie hosted at least one meeting with Fusion GPS and Steele" at some point after July 2016; that Mr. Elias "stayed apprised of Steele and Fusion GPS's work"; and that the DNC—along with Fusion GPS and Steele—"knew that the information in the Steele Dossier related to Dr. Page was false." A32 ¶¶ 52, 51; A31 ¶ 49. The Complaint does not allege that the Steele Dossier or related media coverage mentioned Global Energy or Global Natural Gas.

On September 23, 2016, Yahoo! News published an article titled "U.S. intel officials probe ties between Trump adviser and Kremlin" (the "Yahoo Article"). A33 ¶ 60. That article allegedly contained two misstatements regarding Page. *See* A33-34 ¶ 62. First, Plaintiffs dispute the statement in the Yahoo Article that Page "met with Igor Sechin, a longtime Putin associate and former Russian deputy prime minister" and that, during the meeting, "Sechin raised the issue of the lifting of [U.S.]

sanctions" imposed on him. A33 ¶ 62 (emphasis omitted).[2] Second, the Yahoo Article stated that "U.S. intelligence agencies ha[d] also received reports that Page met with another top Putin aide while in Moscow—Igor Diveykin," then a senior official in President Putin's administration, and that Diveykin was "believed . . . to have responsibility for intelligence collected by Russian agencies about the U.S. election." A34 ¶ 62. The Yahoo Article attributed its contents to a "Western intelligence source," which Plaintiffs allege was Steele and Fusion GPS—not any of the Defendants. *Id.* ¶ 63. Nevertheless, Plaintiffs allege "[o]n information and belief" that Perkins Coie and Mr. Elias "directed" Fusion GPS and Steele to provide the information reported in the Yahoo Article. A32 ¶ 53, A35 ¶¶ 71-72.

Separately, Plaintiffs allege that Mr. Sussmann met with and "passed along" unspecified "information"—including "a thick stack of papers, along with a hard drive"—to the FBI. A34 ¶ 66. The Complaint does not specify the information purportedly provided, except to allege that it "related to the FBI's Trump-Russia investigation." *Id.* Plaintiffs

[2] At the time of the article's publication, Mr. Sechin was Executive Chairman of Rosneft, a Russian energy company headquartered in Moscow. A33 ¶ 62.

also allege, "[o]n information and belief," that Steele provided "false reports to the FBI" at Defendants' direction. A32 ¶ 53, A34 ¶ 65.

C. Page's Various Lawsuits Filed In Courts Across The Country Against Both Defendants And Third Parties

At the time it was filed on January 30, 2020, this lawsuit marked Page's third over a period of nearly two-and-a-half years based on the same underlying allegations. Previously, in September 2017, Page filed a complaint in the Southern District of New York, captioned *Page v. Oath Inc.*, No. 1:17-cv-6990-LGS (S.D.N.Y. filed Sept. 14, 2017), ECF No. 1 (the "Oath Complaint").[3] Page sued Oath Inc., the parent company of Yahoo! News, alleging defamation, tortious interference with business relations, and violation of the federal Anti-Terrorism Act stemming from the publication of the Yahoo Article. *Id.* ¶¶ 154-84. Page did not name any of the instant Defendants as parties. *Id.* ¶¶ 9-13. Judge Schofield held that the Oath Complaint failed to state a claim under the Anti-Terrorism Act, declined to exercise supplemental jurisdiction over Page's state-law claims, and dismissed the action with prejudice. *Page v. Oath Inc.*, No.

[3] "[I]t is routine for courts to take judicial notice of . . . court records." *Schmude v. Sheahan*, 312 F. Supp. 2d 1047, 1064 (N.D. Ill. 2004).

17 Civ. 6990, 2018 WL 1406621, at *4 (S.D.N.Y. Mar. 20, 2018), *aff'd sub nom Page v. U.S. Agency for Glob. Media*, 797 F. App'x 550 (2d Cir. 2019).[4]

In October 2018, over two years after the Yahoo Article was published, Page sued the DNC, Perkins Coie, and Messrs. Elias and Sussmann in the Western District of Oklahoma. A40 ¶ 104 (noting the "Oklahoma Complaint"). Page's Oklahoma Complaint asserted state-law claims for defamation and tortious interference, as well as claims under the federal Anti-Terrorism Act and Racketeer Influenced and Corrupt Organization Act. Like the Oath Complaint, the Oklahoma Complaint was dismissed on jurisdictional grounds. *Page v. Democratic Nat'l Comm.*, No. CIV-18-1019, 2019 WL 404986, at *2 (W.D. Okla. Jan. 31, 2019). Chief Judge Heaton held that Page failed to establish personal jurisdiction over any defendant because (1) although the DNC had a state affiliate in Oklahoma, none of the Defendants was "at home" there, and (2) the conduct underlying Page's claims was not "purposefully directed

[4] Page filed another lawsuit against Oath Inc. in Delaware state court in July 2020—re-asserting his claims for defamation and tortious interference. *Page v. Oath Inc.*, No. S20C-07-030 (Del. Super. Ct. filed July 27, 2020). He also filed multiple loosely related federal complaints against the U.S. Department of Justice and several FBI officials. *Page v. Comey, et al.*, No. 1:20-cv-03460 (D.D.C. filed Nov. 27, 2020); *Page v. U.S. Department of Justice*, No. 1:19-cv-03149 (D.D.C. filed Oct. 21, 2019).

at the State of Oklahoma" and "took place elsewhere." *Id.* Following the court's January 2019 dismissal decision, Page proceeded to file two notices of "supplemental authority" and two motions to alter or amend the court's judgment—both of which were denied, with an admonition from the court on April 25, 2019, that any further filings would lead to sanctions. *Page v. Democratic Nat'l Comm.*, No. 5:18-cv-01019 (W.D. Okla. Oct. 15, 2018), Dkt. Nos. 31, 33, 34, 36, 37, 39.

Plaintiffs filed the instant lawsuit in the Northern District of Illinois approximately nine months later, asserting defamation, tortious interference, and related claims against the same defendants named in the Oklahoma Complaint, based on substantially identical factual allegations. *See* A6.[5]

D. The District Court's Dismissal Decision

Defendants timely moved to dismiss the Complaint in this case pursuant to Federal Rules of Civil Procedure 12(b)(2), 12(b)(3), and 12(b)(6). Defendants sought dismissal on four independent grounds: (1) for failure to establish personal jurisdiction over any Defendant (A61-

[5] The Complaint adds Global Energy and Global Natural Gas as plaintiffs and DNC Services Corporation as a defendant.

67); (2) for improper venue (A67-68); (3) because all but one of Plaintiffs' six claims were time-barred (A68-71); and (4) for failure to state a claim upon which relief could be granted (A71-81). On August 17, 2020, Judge Leinenweber issued a well-reasoned decision granting Defendants' motion and dismissing the Complaint for lack of personal jurisdiction. A5-14. The district court did not reach Defendants' alternative arguments as to venue, timeliness, or the adequacy of Plaintiffs' factual allegations under Rule 12(b)(6).

Judge Leinenweber first rejected Plaintiffs' argument that general jurisdiction exists in Illinois as to Perkins Coie and the DNC. A8-11. With respect to Perkins Coie, the district court acknowledged that one Perkins Coie partner—an LLC—is registered to do business in Illinois. *See* A9. The court observed, however, that Perkins Coie is "an international law firm and limited liability partnership with twenty offices worldwide and partners in at least twelve different states and three different countries." A9-10. In light of Perkins Coie's relatively limited in-forum contacts, the district court held that the firm was not "at home" in Illinois, as required to establish general, or "all-purpose," jurisdiction. *Id.* Similarly, Plaintiffs' allegation that the DNC "invited

its staffers to relocate to Chicago" in connection with then-candidate Barack Obama's 2008 presidential campaign did "not make [the DNC] 'at home' in Illinois in 2020"—at the time Plaintiffs filed suit. A10 (citation omitted). Finally, Judge Leinenweber held that "previous in-state court appearances from Perkins Coie and the DNC" did not subject them to general jurisdiction. A11.

Judge Leinenweber also rejected Plaintiffs' assertion of specific jurisdiction. As the district court's order explained, "[s]pecific jurisdiction applies only 'if [1] the defendant has purposefully directed . . . activities at residents of the forum, and [2] the litigation results from alleged injuries that arise out of or relate to those activities.'" A11 (omission in original) (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985)). Plaintiffs' claims failed that standard because the Complaint alleges "entirely . . . out-of-state activity by out-of-state actors." A13. Specifically, examining the alleged facts animating Plaintiffs' claims, the district court observed:

> The Complaint alleges that Defendants hired a commercial research and strategic intelligence firm based in Washington D.C., Fusion GPS, to conduct political opposition research that led to the 2016 publication of allegedly defamatory news articles about Plaintiffs, who are all Oklahoma residents. *These allegations do not involve Illinois at all*.

A12 (emphasis added). And the "only potentially helpful claim—that Defendants 'orchestrated' their relationship with Fusion GPS through Perkins Coie's Chicago office"—was "baseless conjecture" contingent on a "patchwork of unrelated Illinois connections," including allegations that Perkins Coie's Chicago-based general counsel "wrote a letter to Fusion GPS's general counsel about" privilege disclosures in connection with a 2017 congressional inquiry, and that "some" Perkins Coie associates in Chicago work with the "political law group" led by Mr. Elias in D.C. A13 (citation omitted). Accordingly, Judge Leinenweber held that "the Complaint fail[ed] to establish an Illinois connection" germane to Plaintiffs' allegations. A12.

The district court also addressed—and rejected—Plaintiffs' attempt to assert "seemingly intertwined agency and conspiracy theories of jurisdiction." *Id.* The court noted that "agency theories" of jurisdiction, unlike conspiracy-based theories, "are viable" in the Seventh Circuit. *Id.* But because Plaintiffs failed to establish personal jurisdiction over *any* individual Defendant, there was no jurisdiction available to "impute" to others. *Id.*

Finally, the district court denied Plaintiffs' request for jurisdictional discovery. The court acknowledged that the standard for jurisdictional discovery is relatively "low," requiring only "a colorable or prima facie showing of personal jurisdiction." A13-14 (citation omitted). But Plaintiffs' "attenuated" allegations failed to satisfy that standard. A14. And "Plaintiffs' failure to explain the scope of the discovery" sought "or the specific information they hope to uncover further support[ed]" the court's decision. *Id.* (declining to "authorize a fishing expedition").

SUMMARY OF ARGUMENT

This case has nothing to do with—and does not belong in—Illinois. Taking their Complaint at face value, Plaintiffs allege that Messrs. Elias and Sussmann, attorneys in the D.C. office of Perkins Coie, a Washington-based firm, engaged Fusion GPS, an investigative consulting firm located in D.C., to conduct political opposition research in connection with the 2016 presidential election, and that Fusion GPS shared its findings with Yahoo! News, a California-based media outlet—ultimately leading to the "national" publication of online news articles containing purportedly defamatory references to Page, an Oklahoma resident, and harming the business prospects of Page's two Oklahoma-

based companies, Global Energy and Global Natural Gas. Even setting aside Defendants' tenuous connection to the third-party publications that allegedly defamed him, Plaintiffs' claims cannot proceed in Illinois for the threshold reason that they are based entirely on out-of-state conduct by out-of-state actors with no nexus to Illinois. The district court was correct to conclude that Defendants therefore are not subject to specific personal jurisdiction in Illinois. And Plaintiffs have abandoned any argument on appeal that Defendants are subject to general jurisdiction in the state.

By the same token, it was entirely appropriate for the district court to deny Plaintiffs' request for jurisdictional discovery. Plaintiffs' allegations reflect, at best, generalized or random connections between some Defendants and Illinois. But none comes close to establishing any Defendant's purposeful direction of allegedly tortious activity at Illinois, and Plaintiffs' generic request for discovery in hopes of bolstering their attenuated allegations was properly rejected.

Even if Plaintiffs' failure to make a *prima facie* case of personal jurisdiction were not fatal (it is), Plaintiffs' claims fail for the independent reasons that they are time-barred in substantial part, are unsupported by well-pled allegations of fact, and were filed in the wrong venue.

Finally, this lawsuit appears jurisdictionally deficient in another respect—because the foreign domicile of several Perkins Coie partners who are U.S. citizens prevents Plaintiffs from demonstrating complete diversity of citizenship among the parties. Accordingly, dismissal for lack of *both* personal and subject-matter jurisdiction is warranted.

STANDARD OF REVIEW

The district court's dismissal of the Complaint for lack of personal jurisdiction is reviewed *de novo*. *Bonte v. U.S. Bank, N.A.*, 624 F.3d 461, 463 (7th Cir. 2010). This Court "may affirm the district court's dismissal on any ground supported by the record, even if different from the grounds relied upon by the district court." *Haywood v. Massage Envy Franchising, LLC*, 887 F.3d 329, 332-33 (7th Cir. 2018) (citation omitted).

The district court's decision to deny jurisdictional discovery is reviewed for abuse of discretion. *GCIU-Emp. Ret. Fund v. Goldfarb Corp.*, 565 F.3d 1018, 1026 (7th Cir. 2009). "A court does not abuse its discretion unless . . . (1) the record contains no evidence upon which the court could have rationally based its decision; (2) the decision is based on an erroneous conclusion of law; (3) the decision is based on clearly erroneous factual findings; or (4) the decision clearly appears arbitrary."

Musser v. Gentiva Health Servs., 356 F.3d 751, 755 (7th Cir. 2004) (alteration in original) (citation omitted).

ARGUMENT

I. THE DISTRICT COURT PROPERLY FOUND THAT IT LACKED PERSONAL JURISDICTION

As a threshold matter, the district court determined that Plaintiffs failed to establish personal jurisdiction over any Defendant and dismissed the Complaint on that basis. A7-14. That ruling was correct, and it should be affirmed.

Plaintiffs "bear[] the burden of demonstrating the existence of jurisdiction," and must make at least a *prima facie* showing of personal jurisdiction as to each Defendant in order to avoid dismissal under Rule 12(b)(2). *Purdue Rsch. Found. v. Sanofi-Synthelabo, S.A.*, 338 F.3d 773, 782 (7th Cir. 2003). On appeal, Plaintiffs have abandoned their invocation of general jurisdiction and argue solely that they have "show[n] that specific personal jurisdiction is satisfied." ECF No. 20 at 10; Appellants' Br. 23-24. In support, Plaintiffs cobble together loosely-related allegations of historical connections between certain Defendants and Illinois. Most of Plaintiffs' arguments focus on broad ties between Defendants and Illinois generally—including the alleged relocation of

some DNC staff to Chicago in connection with then-candidate Obama's 2008 presidential campaign and the fact that Perkins Coie "maintains a permanent and prominent" Chicago office. Appellant's Br. 4, 15, 17, 19. In the rare cases where Plaintiffs try to establish a nexus between the forum and Defendants' allegedly tortious conduct, they resort to the same speculative and unsubstantiated conspiracy theories that the district court rightly rejected. Plaintiffs fail to cite a single tortious act in or specifically directed at Illinois, nor any injury arising from conduct in the state. Their inability to link *any* suit-related conduct to Illinois is fatal.

A. Plaintiffs Failed To Establish Specific Jurisdiction Over Any Defendant

In defamation cases, specific jurisdiction exists only if the plaintiff can show that "(1) the defendant . . . purposefully directed his activities at the state; (2) the alleged injury [arose] from the defendant's forum-related activities; and (3) the exercise of jurisdiction . . . comport[s] with traditional notions of fair play and substantial justice." *Felland v. Clifton*, 682 F.3d 665, 673-74 (7th Cir. 2012) (citations omitted). It is not enough to show a forum connection resulting from "untargeted negligence," *Mobile Anesthesiologists Chicago, LLC v. Anesthesia Assocs. of Houston Metroplex, P.A.*, 623 F.3d 440, 444 (7th Cir. 2010) (quoting

Calder v. Jones, 465 U.S. 783, 789-90 (1984)), or from "merely 'random, fortuitous, or attenuated'" contacts, *Tamburo v. Dworkin*, 601 F.3d 693, 702 (7th Cir. 2010) (citation omitted). Rather, "the defendant's contacts with the forum state must directly relate to the challenged conduct or transaction," and the Court should "evaluate specific personal jurisdiction by reference to the particular conduct underlying the claims made in the lawsuit." *Id.*[6]

1. Plaintiffs Failed To Establish Purposeful Direction By Any Defendant

As the district court correctly held, Plaintiffs fail to "offer any facts that suggest the Defendants' . . . suit-related conduct had a substantial connection with Illinois" or that any of Defendants' "alleged acts were purposefully directed at Illinois." A11. The thrust of Plaintiffs' allegations is that Defendants commissioned a D.C. firm to conduct political opposition research that eventually led to the publication of purportedly defamatory news articles about Page and others. But the

[6] Illinois's long-arm statute is "coextensive with the Federal Constitution's Due Process Clause," and the Court therefore need only consider "whether the exercise of jurisdiction comports with federal due process." *J.S.T. Corp. v. Foxconn Interconnect Tech. Ltd.*, 965 F.3d 571, 575 (7th Cir. 2020) (citing 735 Ill. Comp. Stat. 5/2-209(c)).

allegations animating that narrative "do not involve Illinois at all." A12. None of Plaintiffs' arguments on appeal can overcome that fundamental obstacle.

Plaintiffs do not allege (or argue) that Defendants commissioned within or from Illinois the "opposition research" that purportedly led to their eventual defamation. On the contrary, Plaintiffs acknowledge that the Perkins Coie political law group supposedly responsible for "order[ing] and manag[ing] the opposition research on behalf of the DNC" is "led by . . . partners Marc Elias and Michael Sussmannn [sic] *in Washington D.C.*" Appellants' Br. 5. (emphasis added). Nor do Plaintiffs allege that any third party purportedly acting at Defendants' direction did anything—or ever even set foot—in Illinois. And despite their vague and conclusory assertion on appeal that Illinois was "a target for the DNC's national misinformation campaign," *id.* at 3, Plaintiffs cite no well-pled facts or evidence plausibly suggesting that Defendants actually directed or caused the dissemination of their purported findings through a medium aimed at Illinois.

The sole alleged in-forum contact that bears even a passing relation to Plaintiffs' claims is a single, 2017 communication from Perkins Coie's

general counsel, Matthew Gehringer, who happens to be based in Chicago. *See* A27 ¶¶ 20-21 (describing an October 2017 letter by a then-unidentified attorney in Perkins Coie's Chicago office). That three-paragraph letter states merely that Perkins Coie engaged Fusion GPS to "perform a variety of research services during the 2016 election cycle."[7] It does not describe the nature of the commissioned research or mention Plaintiffs at all. And, apart from the coincidental fact of its sender's location, the letter offers no indication of a connection to Illinois. The district court therefore soundly rejected as "baseless conjecture" Plaintiffs' attempt to extrapolate from that one letter—sent long *after* the challenged statements at issue and with no suggestion of any involvement by the sender in the alleged conduct at issue—an inference that Defendants somehow "orchestrated" their purported defamation scheme through Perkins Coie's Chicago office. A13; A27 ¶ 20.

Plaintiffs double down on appeal, insisting that Mr. Gehringer had "overall organizational responsibility for Perkins Coie's role in this historic scheme," and a "management role and involvement related to the

[7] Letter from Perkins Coie to Zuckerman Spaeder LLP (Oct. 24, 2017), https://www.documentcloud.org/documents/4116755-PerkinsCoie-Fusion-PrivelegeLetter-102417.html.

firm's representation of the DNC and work with Fusion GPS." Appellants' Br. 2-3, 12.[8] That contention remains factually unfounded. Plaintiffs rely on *two sentences* in Mr. Gehringer's firm biography, describing his basic role as general counsel, to surmise that any decision to engage Fusion GPS "*should have* involved review and an opinion by Gehringer," and that Mr. Gehringer "*must have* become involved . . . once Congress and the media began inquiring about . . . the Steele Dossier." *Id.* at 5 n.2, 19-20 (emphases added) (citing Matthew J. Gehringer Biography, Perkins Coie, https://www.perkinscoie.com/en/professionals/matthew-j-gehringer.html (last visited Feb. 11, 2021)). But *should haves* and *must haves* are not enough—"jurisdiction must be 'based on specific facts as set forth in the record, rather than . . . conclusory allegations.'" A7 (alteration in original) (quoting *Hub Grp., Inc. v. PB Express, Inc.*, No. 04 C 3169, 2004 U.S. Dist. LEXIS 20846, at *3-4 (N.D. Ill. Oct. 14, 2004); and citing

[8] Tellingly, Plaintiffs at first made only passing reference in their Complaint to an unnamed "senior lawyer" in Perkins Coie's Chicago office who "consulted" with the DNC on privilege issues. A27 ¶¶ 21-22. Now, as a last-ditch effort to make this an Illinois case, Plaintiffs maintain Mr. Gehringer was really the ring-leader of Defendants' conspiratorial scheme to defame them all along.

Purdue, 338 F.3d at 782 n.13). And the mere fact that, in Plaintiffs' words (at 19), "one Chicago-based Perkins Coie lawyer" who happens to work in Illinois sent an after-the-fact administrative letter cannot establish purposeful direction at Illinois by any Defendant in furtherance of an alleged tort that occurred over a year earlier. *See Burger King*, 471 U.S. at 474 ("The unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum State." (citation omitted)).

Plaintiffs' other arguments fare no better. Plaintiffs assert generically that "the DNC and Perkins Coie knew that their actions would harm Dr. Page's reputation across the country including Illinois." Appellants' Br. 18; *id.* at 3 (asserting that Illinois was "a target for the DNC's national misinformation campaign."). To begin, Plaintiffs fail to cite any facts substantiating Defendants' supposed knowledge that Page, an Oklahoma resident, would suffer harm in Illinois as a result of their alleged actions. Regardless, "[t]he proper question is not where [Plaintiffs] experienced a particular injury or effect but whether [Defendants'] conduct connects [them] to the forum in a meaningful way." *Walden v. Fiore*, 571 U.S. 277, 290 (2014). As discussed *infra*, at 28-30,

Plaintiffs' newly fashioned in-forum injury allegations are baseless. But even assuming their truth, the "mere fact that [defendant's] conduct" allegedly "affected plaintiffs with connections to the forum State does not suffice to authorize jurisdiction." *Advanced Tactical Ordnance Sys., LLC v. Real Action Paintball, Inc.*, 751 F.3d 796, 802 (7th Cir. 2014) (alteration in original) (citation omitted).

By the same token, Plaintiffs cannot manufacture a connection between Defendants and the forum by arguing that Yahoo! News published supposedly defamatory statements on a national media platform accessible in Illinois. *See* Appellants' Br. 7, 15, 17-18, 21. Even if such a third-party publication could be attributed to Defendants, a company's "maintenance of a passive website does not support the exercise of personal jurisdiction over that [company] in a particular forum just because the website can be accessed there." *Jennings v. AC Hydraulic A/S*, 383 F.3d 546, 550 (7th Cir. 2004).[9] In any event,

[9] *See also Advanced Tactical*, 751 F.3d at 803 ("We have warned that '[c]ourts should be careful in resolving questions about personal jurisdiction involving online contacts to ensure that a defendant is not haled into court simply because the defendant owns or operates a website that is accessible in the forum state.'" (alteration in original) (citation omitted)); *Shrader v. Biddinger*, 633 F.3d 1235, 1241 (10th Cir. 2011) ("[P]osting allegedly defamatory . . . information on an internet site does

Plaintiffs' arguments rest entirely on alleged actions by third parties: They contend that "Fusion GPS and Steele"—not Defendants—"met with national media entities" to share information; and that those "media entities" published allegedly defamatory statements publicly. Appellants' Br. 7.[10] But specific jurisdiction requires well-pled allegations or evidence "that a *defendant* in some way targeted residents of a specific state" by taking "deliberate actions . . . toward the forum state." *Advanced Tactical*, 751 F.3d at 803 (emphasis added). No such facts or evidence are present here.

2. Plaintiffs Failed To Establish An In-Forum Injury Arising From Defendants' Forum Contacts

Plaintiffs' failure to demonstrate an injury *arising from* suit-related contacts with Illinois independently mandates dismissal. *Bovinett v. HomeAdvisor, Inc.*, No. 17 C 6229, 2018 WL 1234963, at *5-6 (N.D. Ill. Mar. 9, 2018); *id.* at *2 (citing *Tamburo*, 601 F.3d at 702, and finding

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not, without more, subject the poster to personal jurisdiction wherever the posting could be read . . . .").

[10] *See generally Morton Grove Pharm., Inc. v. Nat'l Pediculosis Ass'n Inc.*, 525 F. Supp. 2d 1039, 1042 (N.D. Ill. 2007) (exercising jurisdiction over distributor of a newsletter containing allegedly defamatory statements, but finding no jurisdiction over source who "did not participate in the preparation or mailing of the April 2006 newsletter" and "was unaware it was going to be sent to any Illinois residents").

plaintiff's failure to connect defendant's in-forum activities to events giving rise to the alleged injury "doom[ed]" plaintiff's specific jurisdiction theory). Plaintiffs cannot show that their alleged injury "[arose] from the defendant's forum-related activities," *Felland*, 682 F.3d at 673-74, because the only purported Illinois activity with any remote relation to the general subject-matter of Plaintiffs' claims is Mr. Gehringer's October 2017 letter. And Plaintiffs fail to establish (and cannot seriously argue) that their alleged harm stemming from a 2016 Yahoo News article was caused by a marginally relevant letter sent over a year later which contained no allegedly defamatory statements.[11]

Nor can Plaintiffs rely on Defendants' generic forum connections as somehow demonstrating the source of their alleged injury. Plaintiffs speculate, for example, that because the DNC purportedly expanded its operations in Chicago during the 2008 presidential campaign and "directs political resources" to Illinois' state Democratic party, there is "a

[11] Plaintiffs' strained assertion (at 8-9) that Mr. Gehringer "prolonged and amplified the[ir] harm" by deciding to waive privilege and disclose the nature of Perkins Coie's Fusion GPS engagement in October 2017 is factually and legally unfounded. Plaintiffs do not explain how earlier knowledge that Perkins Coie engaged Fusion GPS would have mitigated their supposed injury. Nor do Plaintiffs cite a single case recognizing "prolonged harm" as relevant to the specific jurisdiction analysis.

strong likelihood of involvement in the tortious conduct against Dr. Page by individuals in [Illinois]." Appellants' Br. 17-19. Plaintiffs offer similar conjecture about Perkins Coie, based on a claim that the firm's Chicago office is "home to members of the firm's political law group who work under [Mr.] Elias for clients like the DNC and Chicago-based Obama for America." *Id.* at 15. Plaintiffs admit those broad-brushed assertions are devoid of "detail." *Id.* at 17. But even setting that aside, the generalized forum ties Plaintiffs rely on are irrelevant because they do not "bear on the substantive legal dispute between the parties or relate to the operative facts of the case." *GCIU-Emp. Ret. Fund v. Goldfab Corp.*, 565 F.3d 1018, 1024 (7th Cir. 2009).

Indeed, it was not until their appeal that Plaintiffs managed to conjure any theory of purported harm connected to Illinois. *See* A12 (noting Plaintiffs are "all Oklahoma residents" and that "'[n]owhere in the Plaintiffs' filings do they claim that they felt these injuries in Illinois'" (alteration in original) (citation omitted)). Plaintiffs' Opening Brief indicates—for the first time and without support—that Page was "in Chicago preparing to flee from Chicago's Midway International Airport at 5:24 p.m. en route to a temporary sanctuary in South Africa" when the

FBI supposedly launched its "unlawful surveillance" of Page. Appellants' Br. 8. To begin, Plaintiffs' belated introduction of unpled and unsubstantiated facts is improper, *see Henneberger v. Ticom Geomatics, Inc.*, 602 F. App'x 352, 353 (7th Cir. 2015) (affirming dismissal for want of jurisdiction and refusing to consider new evidence raised in a "cursory brief" on appeal), and Plaintiffs fail to connect the dots between Defendants' alleged actions, purported surveillance by the FBI, and the legal claims asserted in this case.[12] In any event, Appellants' revelation that Page—a non-Illinois resident—happened to be in transit via Chicago "[o]n the same date that the FBI filed the first FISA application with the FISC," Appellants' Br. 8, is exactly the sort of "random, fortuitous, or attenuated" forum contact that fails to support jurisdiction, *Tamburo*, 601 F.3d at 702 (citation omitted).

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[12] Despite Plaintiffs' assertions to the contrary, *see* Appellants' Br. 8 n.5, *Highsmith v. Chrysler Credit Corp.*, does not give them carte blanche to advance newly contrived "facts" on appeal. 18 F.3d 434, 439-40 (7th Cir. 1994). That case confirms the court may "consider new factual allegations raised for the first time on appeal" in the context of "reviewing Rule 12(b)(6) motions." *Id.* But here, the district court granted dismissal under Rule 12(b)(2), and, in challenging that ruling, Plaintiffs are not entitled to the "benefit of the broad standard for surviving a Rule 12(b)(6) motion." *Id.* (citation omitted). Rather, Plaintiffs must make at least a "prima facie case" of personal jurisdiction. *Purdue*, 338 F.3d at 782.

3. Plaintiffs' Broad Allegations Of Defendants' Generic Forum Connections Cannot Establish Specific Jurisdiction

Unable to cite well-pled facts establishing suit-related conduct on the part of any Defendant or in-forum harm arising therefrom, Plaintiffs try to repurpose the arguments they previously offered in support of their since-abandoned *general* jurisdiction arguments concerning Perkins Coie and the DNC. That puts the cart before the horse. At most, evidence of Defendants' general ties to Illinois—unrelated to the allegations in this case—may be relevant to assessing the fairness of exercising jurisdiction over Defendants. But that determination—"whether the exercise of personal jurisdiction over an out-of-state defendant would offend traditional notions of fair play and substantial justice"—is "the *final* inquiry in the specific-jurisdiction analysis." *Felland*, 682 F.3d at 677 (emphasis added). Because Plaintiffs have not demonstrated a connection between Defendants' alleged actions and Illinois at the first step of the analysis, the Court need not (and should not) reach that "final" fairness assessment.

Plaintiffs' district court briefing pointed to broad connections between certain Defendants and Illinois to suggest that those

Defendants' "affiliations with the [forum] are so constant and pervasive 'as to render [them] essentially at home in the forum State.'" *Daimler AG v. Bauman*, 571 U.S. 117, 122 (2014) (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011)). Judge Leinenweber correctly rejected that argument, A10, and Plaintiffs no longer argue in support of general jurisdiction on appeal, *see supra* at 18. Instead, Plaintiffs attempt to reframe the same allegations as supporting *specific* jurisdiction. Plaintiffs argue that two Defendants—"[t]he DNC and Perkins Coie"—"have sufficient minimum contacts with Illinois so that Dr. Page's suit 'does not offend the traditional notions of fair play and substantial justice.'" Appellants' Br. 16. Plaintiffs point, for example, to Perkins Coie's "prominent" Chicago office, and the DNC's supposed "significant operations from Chicago" and "close[] link[]" to the state's Democratic party. *Id.* at 15, 17. But "[e]ven if assumed true, this patchwork of unrelated Illinois connections does not establish specific personal jurisdiction over any Defendant in this case." A13. Put simply, Plaintiffs cannot use generic facts that purport to establish minimum contacts at the *final* step of the jurisdictional analysis to overcome their burden to make a threshold showing of purposeful direction and a related

injury. *See uBID, Inc. v. GoDaddy Grp., Inc.*, 623 F.3d 421, 432-33 (7th Cir. 2010) (considering the defendant's in-forum presence in the context of the constitutional fairness of "an already-sufficient case for personal jurisdiction").

In any event, this Court has repeatedly refused to "simply aggregate all of a defendant's contacts with a state—no matter how dissimilar in terms of geography, time, or substance—as evidence of the constitutionally-required minimum contacts." *Id.* at 429. Even if this Court reaches the final prong of the specific jurisdiction analysis, the factors relevant to the due process inquiry—"the burden on the defendant," "the forum State's interest in adjudicating the dispute," and "the plaintiff's interest in obtaining convenient and effective relief"—do not favor proceeding in Illinois. *Felland*, 682 F.3d at 677 (citation omitted). Not one individual factually alleged to have commissioned, publicized, or been harmed by the supposed defamatory statements is a resident of Illinois. There is therefore no basis to find that Illinois has an "interest in adjudicating the dispute" or that Plaintiffs will "obtain[] convenient and effective resolution" in the forum. *Id.* Any defense against Plaintiffs' claims would rely on out-of-state witnesses and out-of-

state evidence. A13 (noting Plaintiffs' claims "consist entirely of out-of-state activity by out-of-state actors"). And Plaintiffs offer no reason why Defendants would have "reasonably anticipate[d] being haled into court" in Illinois based on alleged conduct occurring elsewhere. *Burger King*, 471 U.S. at 474 (citation omitted).[13]

B. Plaintiffs' Purported "Agency" Theory Cannot Create Jurisdiction Where None Exists

Plaintiffs finally resort to a purported "agency" theory of jurisdiction. They assert that "Perkins Coie functioned as the agent of the DNC," "[a]nd Elias and Sussmannn [*sic*] are agents of Perkins Coie and the DNC," such that "Perkins Coie's forum-related contacts and impact are imputed to the DNC, Elias, and Sussmannn [*sic*]." Appellants' Br. 24.[14] But Plaintiffs cannot impute jurisdiction that does not exist in

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[13] Plaintiffs assert, without explanation, that Page "has an interest in relief from the forum state as this is one of the only jurisdictions" where he can bring suit. Appellants' Br. 23. If anything, that claim tacitly suggests that Plaintiffs believe jurisdiction may be proper elsewhere.

[14] This argument effectively concedes Plaintiffs' failure to establish jurisdiction over the DNC—for whom Plaintiffs allege only generic Illinois contacts—and the individual Defendants, for whom Plaintiffs fail allege *any* contacts with the forum. In any event, to the extent Plaintiffs are in fact attempting to invoke the conspiracy-based theory of jurisdiction that the district court described as "not viable," A12, that effort runs headlong into Seventh Circuit precedent, *see In re Honey Transshipping Litig.*, 87 F. Supp. 3d 855, 873 (N.D. Ill. 2015) (observing

the first instance. As discussed *supra* at 22, the only alleged suit-related contact with Illinois is the October 2017 letter addressing a limited waiver of privilege in the context of a congressional inquiry. And if that lone contact cannot confer jurisdiction over Perkins Coie, its imputation to the other Defendants has no more effect. The district court thus correctly found that Plaintiffs' failure to establish jurisdiction over any Defendant forecloses application of any agency theory. A12.

II. THE DISTRICT COURT PROPERLY DENIED PLAINTIFFS' REQUEST FOR JURISDICTIONAL DISCOVERY

The district court was well within its discretion to deny Plaintiffs' request for jurisdictional discovery, and Plaintiffs offer no basis to disturb that ruling. In the Seventh Circuit, it is well settled that "[d]istrict courts enjoy extremely broad discretion in controlling discovery" and "only . . . upon a showing of a clear abuse of discretion" will this Court reverse the decision below. *Leffler v. Meer*, 60 F.3d 369, 374 (7th Cir. 1995). Plaintiffs' arguments before the district court were silent as to the scope of the discovery they sought or the information they hoped to glean. Even on appeal, Plaintiffs offer only a vague suggestion about the potential

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that "Illinois courts and the Seventh Circuit have abandoned the conspiracy theory as a basis for personal jurisdiction").

utility of "[l]imited discovery into evidence such as billing records and communications." Appellants' Br. 29. The district court properly denied what was, and is, a proposed "fishing expedition." A14.

Remarkably, Plaintiffs now argue that jurisdictional discovery should be allowed because the sort of admitted "conjecture" and "attenuated" allegations they rely on "are exactly the type of facts that discovery may strengthen." Appellants' Br. 28. But deficient pleadings do not, by virtue of their deficiency, entitle Plaintiffs to discovery. And Plaintiffs cannot subject Defendants to the expense of discovery based on a bald and desperate hope that doing so might uncover facts sufficient to pass Rule 12(b)(2) muster. Instead, "[a]t a minimum, [Plaintiffs] must establish a colorable or prima facie showing of personal jurisdiction" before discovery will be permitted. *GCIU-Employer Ret. Fund*, 565 F.3d at 1026 (first alteration in original) (citation omitted). And even then, Plaintiffs' own authority confirms that any discovery must be narrowly tailored to seek discrete information bearing directly on the jurisdictional inquiry. *See Toys "R" Us, Inc. v. Step Two, S.A.*, 318 F.3d 446, 456, 458 (3d Cir. 2009) (permitting discovery that was "specific, non-frivolous, and a logical follow-up based on the information known to Toys"); *Metcalfe v.*

Renaissance Marine, Inc., 566 F.3d 324, 336 (3d Cir. 2003) (ordering jurisdictional discovery where plaintiffs' claims were "certainly not frivolous" and plaintiffs had established a prima facie case of jurisdiction *without* the requested discovery).

Plaintiffs' arguments fail on all counts. Despite touting the supposed public revelations of "many misdeeds that became the bases for Dr. Page's complaint," Appellants' Br. 27, Plaintiffs fail to identify suit-related conduct by any Defendant in or otherwise purposefully directed at Illinois. And their speculation (at 29) that unspecified discovery "may reveal" relevant information is precisely the sort of wished-for fishing expedition that courts consistently reject. The district court's denial of jurisdictional discovery should therefore stand.

III. THIS COURT LACKS SUBJECT-MATTER JURISDICTION

Upon concluding that Plaintiffs did not establish personal jurisdiction, the district court properly dismissed the case without determining whether subject-matter jurisdiction existed. *See Cent. States, Se. & Sw. Areas Pension Fund v. Reimer Express World Corp.*, 230 F.3d 934, 939 n.2 (7th Cir. 2000) ("[A] district court may dismiss for lack of personal jurisdiction without determining whether subject-matter

jurisdiction exists."); *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 578 (1999) (noting that "there are circumstances in which a district court appropriately accords priority to a personal jurisdiction inquiry").

This Court raised the issue of subject-matter jurisdiction in its January 12, 2021 order instructing Plaintiffs to file an amended jurisdictional statement, in part because Plaintiffs "fail[ed] to identify by name all partners of defendant Perkins Coie, LLP, and each partner's state of citizenship and domicile." ECF No. 18 at 2. The Court noted that information is "particularly important" for partners in Perkins Coie's foreign offices, since American citizens who establish a domicile abroad foreclose invocation of 28 U.S.C. § 1332(a)(3). *Id.* Plaintiffs' Amended Jurisdictional Statement, filed January 19, 2021, identifies multiple Perkins Coie partners who work in one of the firm's China offices and for whom Plaintiffs were unable to confirm any U.S. domicile. Upon further investigation, Defendants have confirmed that three individual Perkins Coie partners—Louise Lu, Scott Palmer, and James Zimmerman—are U.S. citizens domiciled in China. Accordingly, complete diversity among the parties is lacking.

As "the party invoking federal jurisdiction," Plaintiffs "bear[] the burden of demonstrating its existence." *Hart v. FedEx Ground Package Sys., Inc.*, 457 F.3d 675, 679 (7th Cir. 2006). And "'[w]henever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.'" *Forbes v. Trigg*, 976 F.2d 308, 312 (7th Cir. 1992) (alteration in original) (quoting Fed. R. Civ. P. 12(h)(3) (1992)). Thus, where—as here—a plaintiff invokes federal jurisdiction based on a purported diversity of citizenship, it is the plaintiff's obligation to "show the citizenship of each party as of the date that the complaint was filed." *Dausch v. Rykse*, 9 F.3d 1244, 1245 (7th Cir. 1993).

"In order to be a citizen of a State within the meaning of the diversity statute, a natural person must be both a citizen of the United States *and* be domiciled within the State." *Newman-Green Inc. v. Alfonzo-Larrain,* 490 U.S. 826, 828 (1989). "[A]n expatriate is deemed neither an alien nor a citizen of any State," and his "'stateless' status upsets complete diversity under § 1332(a)(3)." *Kamel v. Hill-Rom Co.*, 108 F.3d 799, 805 (7th Cir. 1997); *Sadat v. Mertes*, 615 F.2d 1176, 1180

(7th Cir. 1980) ("[A] citizen of the United States who is not also a citizen of one of the United States may not maintain suit under [§ 1332(a)(1)].").

Here, the "stateless" status of the three Perkins Coie partners who are American citizens domiciled abroad is imputed to Perkins Coie for jurisdictional purposes. *See Carden v. Arkoma Assocs.*, 494 U.S. 185, 195-96 (1990) ("[D]iversity jurisdiction in a suit by or against [a partnership] depends on the citizenship of . . . 'each of its members.'" (citation omitted)). As a result, diversity jurisdiction is "unavailable." *ISI Int'l, Inc. v. Borden Ladner Gervais LLP*, 316 F.3d 731, 733 (7th Cir. 2003) ("One of [defendant law firm]'s partners is a U.S. citizen domiciled in Canada; she has no state citizenship, so the diversity jurisdiction is unavailable.").[15] And because Plaintiffs do not assert claims arising under federal law, no other basis for subject-matter jurisdiction exists. Dismissal is therefore appropriate. *Rice v. Rice Found.*, 610 F.2d 471, 474 (7th Cir. 1979); *Varhol v. Nat'l R.R. Passenger Corp.*, 909 F.2d 1557, 1569 (7th Cir. 1990).

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[15] *See also Morgan, Lewis & Bockius LLP v. City of E. Chi.*, No. 08-C-2748, 2008 WL 4812658, at *1 (N.D. Ill. Oct. 29, 2008) ("[I]f any one partner is stateless, the partnership itself is stateless for purposes of diversity jurisdiction.").

IV. PLAINTIFFS' CASE INDEPENDENTLY FAILS ON THE MERITS

In the alternative, this Court should affirm the dismissal of Plaintiffs' claims for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6). Although Judge Leinenweber did not reach the merits of Plaintiffs' claims, this Court may "affirm on any ground supported by the record so long as the issue was raised and the non-moving party had a fair opportunity to contest the issue in the district court." *Locke v. Haessig*, 788 F.3d 662, 666 (7th Cir. 2015). All but one of Plaintiffs' claims is time-barred. *See* A68-71. Regardless, all of Plaintiffs' claims are without merit, and the Complaint falls well short of alleging the facts necessary to support any claim. *See* A71-81.

Plaintiffs' defamation, false light, and conspiracy claims are untimely. *See* A68-71. Claims for defamation or false light are governed by a one-year statute of limitations, running from the time of the allegedly offending publication.[16] 735 Ill. Comp. Stat. 5/13-201; *see also*

[16] Plaintiffs' false light claim stems from the same alleged publication of defamatory statements that form the basis for their defamation claims. *See* A42 ¶¶ 134-37. The statute-of-limitations analysis is therefore the same. *See* 735 Ill. Comp. Stat. 5/13-201 ("Actions for slander, libel or for publication of matter violating the right of privacy, shall be commenced within one year next after the cause of action accrued."); *Lovgren v.*

Muzikowski v. Paramount Pictures Corp., 322 F.3d 918, 923 (7th Cir. 2003) ("Illinois imposes a one-year statute of limitations on all defamation actions that begins to run when the defamatory statement was published."). Assuming the truth of the allegations in the Complaint, Plaintiffs cannot identify a single statement published by any Defendant within one year of the date on which this lawsuit—or, for that matter, the prior Oklahoma action—was filed.[17] Similarly, Illinois courts "that have addressed the appropriate statute of limitations for a conspiracy to defame action have applied the one year statute of limitations for defamation." *Mauvais-Jarvis v. Wong*, 987 N.E.2d 864, 895 (Ill. App. Ct. 2013). Thus, Plaintiffs' conspiracy claim—based on the same alleged facts as the defamation and false light claims—is also time-barred.[18]

Citizens First Nat'l Bank of Princeton, 534 N.E.2d 987, 991 (Ill. 1989) ("There is an overlapping of protected interests in the false-light privacy tort and those protected by defamation law.").

[17] Plaintiffs' Complaint in this action relies primarily on a Yahoo! News article published in September 2016, but also makes passing reference to a January 2017 publication by BuzzFeed. A33 ¶ 60; *see also* Oklahoma Compl. ¶ 31.

[18] Even if Plaintiffs' claims were timely (they are not), they would nonetheless fail because (1) the allegedly defamatory statements are substantially true, (2) the allegedly defamatory statements are subject to an innocent construction, and (3) Plaintiffs fail to adequately allege actual malice. *See* A71-76. Thus, the Complaint does not sufficiently

That leaves only Plaintiffs' claim for tortious interference with a prospective economic advantage. That claim required Plaintiffs to allege facts demonstrating "(1) Plaintiff[s'] reasonable expectancy of entering into a valid business relationship; (2) Defendants' knowledge of that expectancy; (3) Defendants' intentional and unjustifiable interference that induced or cause[d] a breach or termination of the expectancy; and (4) damages." *Simons v. Ditto Trade, Inc.*, 63 F. Supp. 3d 874, 881 (N.D. Ill. 2014). Additionally, the alleged "[a]ctions that form the basis of a tortious interference claim must be directed at third-party business prospects." *F:A J Kikson v. Underwriters Labs., Inc.*, 492 F.3d 794, 800 (7th Cir. 2007). Here, however, Plaintiffs do not allege—in even a conclusory fashion—that Defendants' actions were directed toward any would-be business partner of Page, Global Energy, or Global Natural Gas. Instead, even crediting their allegations, any purported impact on Plaintiffs' business interests was entirely incidental. And that pleading failure, by itself, forecloses Plaintiffs' claim. *See Premier Transp., Ltd. v. Nextel Commc'ns, Inc.*, No. 02 C 4536, 2002 WL 31507167, at *2 (N.D. Ill.

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allege either false light or defamation in relation to a public or quasi-public figure. *See Green v. Rogers*, 917 N.E.2d 450, 458-59 (Ill. 2009).

Nov. 12, 2002) (noting the "long line of cases . . . explaining that the element of interference requires more than mere allegations of conduct between the plaintiff and defendant").

CONCLUSION

For the foregoing reasons, the district court's ruling should be affirmed.

Dated: February 16, 2021

Respectfully submitted,

/s/ Terra Reynolds

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitations of Fed. R. App. P. 32(a)(7)(B) and 7th Cir. R. 32(c) because it contains 9,225 words, including Tables A-C in the attached Addendum, and excluding the parts exempted by Fed. R. App. P. 32(f). I further certify that this brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and Seventh Circuit Rule 32(b) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared using Century Schoolbook font that is 12 point or larger.

/s/ Terra Reynolds
Terra Reynolds

ADDENDUM

TABLE OF CONTENTS

I. CITIZENSHIP OF PERKINS COIE, LLP

II. DECLARATIONS OF STATELESS PARTNERS

TABLE A – Professional Corporation Partners of Perkins Coie as of January 30, 2020

Name	State of Incorporation	Principal Place of Business
Perkins Coie I, P.C.	WA	WA
Perkins Coie II, P.C.	WA	WA
Perkins Coie III, P.C.	WA	WA
Perkins Coie California, P.C.	CA	CA
Perkins Coie California II, P.C.	CA	CA
Perkins Coie Colorado, P.C.	CO	CO
Perkins Coie Oregon, P.C.	OR	OR
Perkins Coie D.C., P.C.	DC	DC
Perkins Coie Brown & Bain, P.A.	AZ	AZ
David A. Katz, A Professional Corp.	CA	CA

TABLE B – Members of Perkins Coie LLC, a Partner of Perkins Coie as of January 30, 2020

Name	Domicile
Anstaett, David L.	WI
Audette, Brian A.	IL
Boggs, Craig T.	IL
Boji, Jeannil D.	IL
Bonjour, Bruce A.	IL
Bowen, Jeff J.	WI
Brandfonbrener, Eric	IL
Bridgeman, Randy A.	IL
Buck, Jonathan R.	IL
Burns, Timothy W.	WI
Carreyn, Rodger K.	WI
Cole, Alexandra R.	IL
Coughlan, James B.	IL
Cruger, James R.	IL
Cunningham, Tiffany P.	IL
Curtis, Charles	WI
Daley, Susan J.	IL
Dasmunshi, Joydeep	IL
Davis, James M.	IL
Docks, Adam M.	IL
Ducommun, Steven E.	IL
Dufresne, Andrew T.	WI
Fahrer, Nathan F.	WA

Name	Domicile
Berkowitz, Pamela E.	IL
Bernard, Debra R.	IL
Gillstrom, Sarah C.	AK
Gold, David J.	IL
Gold, Judith A.	IL
Gordon, Phillip	IL
Greb, Emily J.	WI
Hagenbuch, Tyler J.	IL
Halpern, Marcelo	IL
Hanahan, Michael J.	IL
Hanewicz, Christopher G.	WI
Holt, Thomas	IL
Kolton, Kevin L.	IL
Kreger, Michael E.	AK
LaMonica, Regina L.	IL
Larson, J. Bates McIntyre	IL
Leik, James N.	AK
Lindquist, Teri A.	IL
Loehr, Kira E.	WI
Lopez, Jose A.	IL
Maloney, C. Vincent	IL
Marchuk, Adam L.	IL
Marre, Daniel G.M.	IL

Name	Domicile
Feldis, Kevin R.	AK
Fjelstad, Eric B.	AK
Flotte, Sarah E.	IL
Fournier, David B.	IL
Gehringer, Matthew J.	IL
George, LaDale K.	IL
Owen, Michael L.	IL
Park, Lucy K.	IL
Potts, Brian H.	WI
Quintana, Jason M.	IL
Rao, Pravin B.	IL
Romerdahl, Elena M.	AK
Ryman, Danielle M.	AK
Sawyer, Douglas L.	IL
Schreiner, John P.	IL
Sevcik, Richard L.	IL
Shebuski, Matthew A.	IL

Name	Domicile
McNally, Jaclyn A.	IL
Morrissey, Megan G.	IL
Neff, David M.	IL
Nero, Autumn N.	WI
Newman, Sandra K.	IL
Oka, Melissa J.	IL
Skilton, John S.	WI
Spendlove, Liana W.	UT
Trombino, Caryn Lara	IL
Umberger, Michelle M.	WI
Vance, Geoffrey A.	IL
Veatch, Christopher K.	IL
Villaflor, Gilbert J.	IL
Walker, Eric C.	IL
Wern, Theodore W.	IL
Sherman, Mindy W.	IL
Wilson, Christopher B.	IL

TABLE C – Individual Partners of Perkins Coie as of January 30, 2020

Name	Domicile
Wise, Michael J.	CA
Sink, Michael A.	CO
Garcia, Javier F.	CA
Schneiderman, Jason A.	CA
Lake, Brian C.	AZ
Understahl, Jennifer J.	AZ
Aldama, Karin S.	AZ
Kula, Donald J.	CA
Hughes, Mary Rose	DC
Reichman, Lawrence H.	OR
Shvodian, Daniel T.	CA
Valentine, James F.	CA
Jones, Julie A.	CA
Smith, Victoria Q.	CA
Tehranchi, Babak	CA
Sathe, Vinay	CA
Samel, Charles H.	CA
Miller, Keith W.	NY
Lu, Yun Louise	China
Dedyo, David F.	CA
Schwartz, Julie E.	CA

Name	Domicile
McIntire, Ronald A.	CA
Aldisert, Robert L.	OR
Rossiter, John S.	CA
Ferlo, Albert M.	WA
Tate, Teresa M. L.	CA
Rich, Christopher W.	OR
Bowen, Tyler R.	AZ
Allely, Craig M. J.	CO
Talieh, Koorosh	MD
Robinson, Geoffrey L.	CA
Cosman, Bradley A.	AZ
Pahlavan, Resa Arman	CA
Wildman, Sloane A.	VA
Colli, Garrett J.	CA
Sarubbi, Ronald T.	NY
Haynie, Erick J.	OR
Hunter, Jeffrey L.	WA
Wicks, Edward E.	IL
Wicker, Mark R.	CA
Rojas, Matthew L.	AZ
Jones-McKeown, Meredith A.	CA

Name	Domicile
Ness, Lowell D.	CA
Such, Domingo P.	IL
Glenn, Michael A.	CA
Daryanani, Jonesh G.	CA
Zagar, Laura G.	CA
Hussey, Julie L.	CA
Snell, James G.	CA
Peterson, Richard E.	IL
Neumann, Kurt J.	IL

Name	Domicile
Leipzig, Dominique Shelton	CA
Palmer, Scott	China
Zimmerman, James M.	China
Larsen, Kari S.	NY
Thompson, Patrick S.	CA
Markley, Julia E.	OR
Feldis, Kevin R.	AR
Carroll, James E.	IL

EXHIBIT 1

No. 20-2781

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

CARTER PAGE, an individual; GLOBAL ENERGY CAPITAL LLC, a limited liability company; and GLOBAL NATURAL GAS VENTURES LLC, a limited liability company,

Plaintiffs-Appellants,

v.

DEMOCRATIC NATIONAL COMMITTEE; DNC SERVICES CORPORATION; PERKINS COIE LLP; MARC ELIAS; and MICHAEL SUSSMANN,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Illinois
Case No. 1:20-cv-00671
The Honorable Harry D. Leinenweber

DECLARATION OF YUN (LOUISE) LU

1. I, Yun (Louise) Lu, am a partner with the law firm Perkins Coie LLP ("Perkins Coie"). This Declaration is based on my personal knowledge and is submitted in support of the Brief of Appellees in the above-captioned appeal.

2. On or around March 5, 2012, I joined Perkins Coie as an associate in the firm's San Diego office. I then moved to the firm's Shanghai Representative Office, located at 16F Hang Seng Bank Tower, 1000 Lujiazui Ring Road, Pudong

New Area, Shanghai, P.R., China 200120, in November 2019. I have been an individual partner of Perkins Coie since January 1, 2020.

3. I am a dual citizen of the United States and Taiwan, but I have lived and worked in Shanghai, China since 2019. I received my undergraduate degree from National Taiwan University in 1997, and subsequently attended a master's degree program and law school at the University of New Hampshire and UC Hastings College of the Law in the United States, respectively, before relocating to Shanghai, China in 2019.

4. Prior to joining Perkins Coie in 2012, I worked as an associate at Adli Law Group, P.C. for approximately two years. Since 2019, I have been based primarily in Perkins Coie's Shanghai office, at the address listed in Paragraph 2. I also occasionally work in the firm's San Diego office.

5. My law practice consists of approximately 75% China-based work (including China-inbound and China-outbound intellectual property matters), as has been the case since 2019.

6. I am registered as a foreign lawyer with the Ministry of Justice of the People's Republic of China, and I have maintained an active work permit with the Chinese labor authorities since beginning my tenure as a China-based attorney in 2019.

7. I pay employment tax, personal income tax, and social insurance tax in China. And from 2019 through the present, my address for U.S. federal tax purposes was in Shanghai, China.

8. My primary home is located in Shanghai, China, and has been since 2019. I do not reside in the United States.

9. On or around January 19, 2020, I temporarily left my home in China and traveled to Taiwan amid concerns about the outbreak of COVID-19. I have not yet returned to China, but intend to do so as soon as possible and to continue residing and working in Shanghai, China indefinitely thereafter.

10. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 12th day of February, 2021.

/s/ *Yun (Louise) Lu*
Yun (Louise) Lu

EXHIBIT 2

No. 20-2781

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

CARTER PAGE, an individual; GLOBAL ENERGY CAPITAL LLC, a limited liability company; and GLOBAL NATURAL GAS VENTURES LLC, a limited liability company,

Plaintiffs-Appellants,

v.

DEMOCRATIC NATIONAL COMMITTEE; DNC SERVICES CORPORATION; PERKINS COIE LLP; MARC ELIAS; and MICHAEL SUSSMANN,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Illinois
Case No. 1:20-cv-00671
The Honorable Harry D. Leinenweber

DECLARATION OF SCOTT PALMER

1. I, Scott Palmer, am a partner with the law firm Perkins Coie LLP ("Perkins Coie"). This Declaration is based on my personal knowledge and is submitted in support of the Brief of Appellees in the above-captioned appeal.

2. On or around May 15, 2018, I joined Perkins Coie as a partner in the firm's Beijing Representative Office, located at China World Office Tower 1, Suite 3501, No. 1 Jianguomenwai Avenue, Chaoyang District,

Beijing, China 100004, P.R.C. I am an individual partner of Perkins Coie.

3. I am a citizen of the United States, but I have lived and worked in China since 2002.

4. Prior to joining Perkins Coie in 2018, I practiced law with two other firms in China. I am currently Managing Partner of Perkins Coie's Beijing office, and also lead the office's Intellectual Property practice group, which comprises approximately 17 fee earners.

5. My current law practice consists predominately of China-based work (including China-inbound and China-outbound intellectual property matters), as has been the case since 2002.

6. I am registered as a foreign lawyer with the Ministry of Justice of the People's Republic of China, and I have maintained an active work permit with the Chinese labor authorities since beginning my tenure as a China-based attorney in 2002.

7. I am currently Chair of the Intellectual Property Forum of the American Chamber of Commerce, a position I have held since around 2014; and I have served as a member of that organization since around 2008.

8. I presently speak, read, and write Mandarin at an advanced proficiency level.

9. From approximately 2002 to 2004, I lived with my wife and child in Hong Kong, and we lived together in Beijing, China from 2005 to 2014. My wife and child relocated to the United States in 2014 for purposes of my child's high school education, but I continued residing and working in China. Since 2014, I have traveled to the United States several times per year to visit my family, but—with the exception of 2020, for reasons explained below—I spend the majority of my time in China.

10. I presently rent a home in Beijing, China, and I am two years into a three-year residential lease, which I plan to renew at the end of the existing term.

11. I have a valid China-issued social security card.

12. I maintain an active China-based bank account at the Industrial and Commercial Bank of China.

13. From 2002 through 2019, I paid employment tax, personal income tax, and social insurance tax in China. And from 2002 through 2019, my address for U.S. federal tax purposes was in Beijing, China.

14. On or around January 24, 2020 I temporarily left my home in China to visit my family for the upcoming Chinese New Year. Due to the ongoing public health crisis and travel restrictions caused by the pandemic, I was unable to return to China for many months. I returned to China on or around October 4, 2020 and remained at my residence in China until approximately December 20, 2020, when I traveled back to the United States to visit my family for the holidays.

15. I am temporarily present in the United States, but plan to return to my home in China on February 24, 2021.

16. Due to the time that I spent away from my home in China in 2020 as a result of the COVID-19 crisis, I do not expect to pay taxes in China for the 2020 calendar year.

17. It has been and remains my intention to return to my home and office in Beijing, China. And I plan to continue residing and working in Beijing, PRC indefinitely thereafter—though I will return to the United States to visit my wife and child regularly.

18. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 11th day of February, 2021.

/s/ *Scott Palmer*
Scott Palmer

EXHIBIT 3

No. 20-2781

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

CARTER PAGE, an individual; GLOBAL ENERGY CAPITAL LLC, a limited liability company; and GLOBAL NATURAL GAS VENTURES LLC, a limited liability company,

Plaintiffs-Appellants,

v.

DEMOCRATIC NATIONAL COMMITTEE; DNC SERVICES CORPORATION; PERKINS COIE LLP; MARC ELIAS; and MICHAEL SUSSMANN,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Illinois
Case No. 1:20-cv-00671
The Honorable Harry D. Leinenweber

DECLARATION OF JAMES M. ZIMMERMAN

1. I, James M. Zimmerman, am a partner with the law firm Perkins Coie LLP ("Perkins Coie").

2. On or around May 18, 2018, I joined Perkins Coie as a partner in the firm's Beijing Representative Office, located at China World Office Tower 1, Suite 3501, No. 1 Jianguomenwai Avenue, Chaoyang District, Beijing, China 100004, P.R.C. I am an individual partner of Perkins Coie.

3. I am a citizen of the United States, but I have lived and worked in Beijing, China since 1998.

4. Prior to joining Perkins Coie in 2018, I worked as an attorney in two other Beijing-based law offices. I served as Chief Representative of the Beijing office of Squire, Sanders & Dempsey from March 2003 to August 2011, and as Managing Partner and Chief Representative of the Beijing office of Sheppard Mullin from August 2011 to May 2018. Since May 18, 2018, I have been based in Perkins Coie's Beijing office, the current address of which is listed in Paragraph 2.

5. Approximately 80% of my law practice relates directly to advising clients based or conducting business in China. As to the remainder of my practice, approximately 10% of my work involves representing clients in connection with U.S. matters, and another 10% involves business related primarily to other jurisdictions in Asia.

6. I am registered as a foreign lawyer with the Ministry of Justice of the People's Republic of China, and I have maintained an active work permit with the Chinese labor authorities since beginning my tenure as a China-based attorney in 1998.

7. I am a current member and the former Chairman of the American Chamber of Commerce in China. I am also a current member of the U.S.-China Business Council.

8. My primary residence is located in Beijing, China, and has been since 1998. My wife and I raised three children in China, each of whom attended an international school in Beijing from kindergarten through high school. My wife and I are also members of the Our Lady of China Catholic Church in Beijing, where I previously served on the parish council.

9. My wife and I presently rent a home in Beijing, China, and our residential lease is valid through June 2022. We have lived in the same home since 2016 and we currently intend to renew our lease at the end of the existing term.

10. I have maintained a China-issued driver's license since 1999 and I own and operate a vehicle that is registered in China. My current China-issued driver's license is valid through August 2023.

11. I maintain three active China-based bank accounts, and my wife maintains one China-based bank account.

12. From 1998 through 2019, I paid personal income tax and social insurance tax in China. And from 1998 through 2019, my address for U.S. federal tax purposes was in Beijing, China.

13. On or around January 28, 2020, I temporarily left my home in China to attend client meetings on the east coast of the United States. Due to the ongoing public health crisis and travel restrictions caused by the pandemic, I was unable to return to China for several months. I returned to China on or around September 13, 2020 and remained at my residence in China until approximately December 3, 2020, when I traveled to the United States to care for my elderly mother and move her closer to family amid concerns about the outbreak of COVID-19.

14. I am temporarily present in the United States, but plan to return to China on February 14, 2021.

15. It has been and remains my intention to return to my home in Beijing, China. And I plan to continue residing and working in Beijing, China indefinitely thereafter—though I expect to make periodic trips to the United States to visit family.

16. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 11th day of February, 2021.

/s/ *James M. Zimmerman*
James M. Zimmerman