O'NEILCANNON
HOLLMAN DEJONG & LAING S.C.

WHETHER WEBSITE PRESENCE EXPOSES PUBLISHER TO LAWSUITS IN WISCONSIN ANALYZED IN RECENT CASE

Most people would probably assume that simply maintaining a website would not expose the creator to being sued wherever the website can be viewed. Courts in this country have generally agreed, and have ruled that the mere act of operating a website that can be read within a certain state does not, by itself, give the courts of that state jurisdiction over the entity running the website.

In a recent opinion, the Wisconsin Court of Appeals affirmed this principle. In *Salfinger v. Fairfax Media Limited*, the court concluded that the mere fact that an Australian company published an article on a website, which could be accessed in Wisconsin, did not give the court jurisdiction over that company. This was true even though the plaintiff's claim was for defamation based on the content in that article. Rather, to be consistent with the Due Process Clause of the United States Constitution, there must have been some purposeful conduct within Wisconsin by the company that would make facing suit in Wisconsin foreseeable.

Even more importantly, the court also considered whether the targeted advertising on the website changed the result. Like many companies, Fairfax Media Limited used online advertising programs, such as through Google or Double Click, that placed advertisements on its website targeted to the reader based on his or her geographic location—for example, placing ads for a Wisconsin business on its website next to the article if the reader was located in Wisconsin. Ultimately, the court concluded that this still was not enough Wisconsin-related conduct to give the court jurisdiction over the publisher and expose it to being sued in Wisconsin.

The Court did note that the question of jurisdiction depends on the facts in each particular case, so it is unclear whether even one change in the circumstances, such as a company mentioning Wisconsin in a website article, could change the result and open the company to lawsuits in Wisconsin. These questions will ultimately have to be resolved in future cases.