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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 09-0841 ODW (CTx)	Date	March 24, 2010
Title	*Junior Larry Hillbroom v. David J. Lujan, et al.*		

Present:	The Honorable Otis D. Wright II, United States District Judge	
Tanya Durant	Not Present	n/a
Deputy Clerk	Court Reporter	Tape No.

Attorneys Present for Plaintiff(s):	Attorneys Present for Defendant(s):
Not Present	Not Present

Proceedings (In Chambers): **Defendant Lujan's Motion to Dismiss [25]; Motion for Sanctions [29]; and Motion to Withdraw [69]; Motion for Extension of Time [40]**

Plaintiff Junior Larry Hillbroom ("Plaintiff") brings this action for legal malpractice, negligence, fraud, RICO violations and civil conspiracy against Defendants David Lujan ("Lujan"), Barry Israel ("Israel") and Keith Waibel ("Waibel"). In essence, the First Amended Complaint ("FAC") alleges a broad conspiracy among Defendants to defraud Plaintiff out of millions of dollars he received in connection with the settlement of his deceased father's multi-million dollar estate. Lujan and Israel served as counsel in the underlying guardianship and probate proceedings, which took place in Guam and the Commonwealth of the Northern Mariana Islands ("CNMI"), respectively. Waibel is the co-trustee of the J.L.H. trust which holds, in trust and for the benefit of Plaintiff, Plaintiff's share of his father's estate. Plaintiff contends Defendants wrongfully capitalized off his newfound fortune by fraudulently and secretly increasing their retainer agreement from 38% to 56%.

Now before the Court is Defendant Lujan's Motion to Dismiss Plaintiff's FAC and Motion for Rule 11 Sanctions against Plaintiff's counsel and counsel's law firm. Initially, the Court deferred ruling on these matters because it was of the opinion that a 28 U.S.C. 1404(a) transfer for the convenience of the witnesses and parties may be warranted. That OSC was discharged on September 1, 2009, and these matters are now ripe for decision.[1] Also pending before the Court is a Motion to Withdraw as Counsel of Record, filed by Lujan's counsel [69].

I. BACKGROUND

The factual background of this case is briefly summarized below. Except where otherwise

[1] The Court previously deemed these matters appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78; Local Rule 7-15.

O

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indicated, all facts are culled from allegations in the FAC.

When Larry Hillblom passed away in May 1995, he left behind an estate worth approximately $550 million and four pretermitted children, one of whom is Plaintiff. (FAC ¶¶ 14-15.) To maximize his share of his father's estate, Plaintiff first retained the Family and Immigration Law Clinic ("FLIC"), and later Defendants Lujan and Israel, to represent his (Plaintiff's) interests in both the CNMI Hillblom Estate case ("Estate Case") and, because Plaintiff was a minor at the time, the underlying guardianship case in Guam ("Guardianship Case"). (FAC ¶¶ 4, 20.) Plaintiff's mother and grandmother, Kaelani Kinney and Naoko Imeong ("Naoko"), respectively, were his co-guardians in both cases. Eventually, the Estate Case settled, entitling Hillblom's four pretermitted children to a 60% share of his estate; approximately 15% (or, $90 million before taxes) of which belonged to Plaintiff. (FAC ¶ 20.)

At the time of the Estate Case settlement, Lujan and Israel split a 22% contingency fee with Plaintiff's original counsel, the FLIC. (FAC. ¶ 17.) According to Plaintiff, however, in January 1998, Lujan and Israel convinced Naoko to terminate the FILC and to execute a new, comprehensive 38% contingency fee of Plaintiff's gross settlement amount, in addition to any other subsequent or related litigation which may become necessary in the future. (FAC ¶ 22.) Naoko executed the 38% retainer and, pursuant to Guardianship Court orders, Lujan submitted the proposed retainer for approval. For the next six months, the Guardianship Court scrutinized the proposed contingency fee and dutifully inquired into its appropriateness. (FAC ¶ 25.) Among other things, the Guardianship Court reviewed hundreds of pages of briefing, conducted multiple hearings on the matter, heard testimony describing the work Lujan and Israel had done in the underlying proceedings, considered Plaintiff's guardians' consent to the fee increase, and considered the fact that counsel for the other three heirs received fees no greater than 36%. (FAC ¶ 26.) Ultimately, the 38% contingency fee was conditionally approved by the Guardianship Court in June 1998.[2] (FAC ¶¶25-26.)

Meanwhile, Lujan and Israel obtained court approval to relocate Plaintiff and his grandmother to Guam, to use interim estate payments to purchase a home for them, and to pay for all guardianship expenses. (FAC ¶ 24.) Plaintiff alleges events such as these were effectuated in order to isolate Plaintiff and his guardians so that they become more easily accessible and controlled by Defendants.

[2] Plaintiff alleges the Guardianship Court's approval was conditioned on approval by the Estate Court, thereby relinquishing the Guardianship Court's authority to determine the fairness of retainers for Plaintiff's representation. (FAC ¶ 26.) In his opposition, Plaintiff contends Defendants have yet to provided a signed order from the Estate Court approving the 38% retainer. (Opp'n at 3.) In his FAC, however, Plaintiff challenges "only the Attorneys' misconduct of entering into and in receiving payments under the 56% Retainer." (FAC ¶ 53.) It should be noted, though, that any future challenges to the 38% retainer may have to be litigated in a different forum (assuming such claims are not already waived, of course).

O

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(Id.)

Just prior to the first multimillion dollar settlement distribution, Lujan and Israel established the JLH Trust to receive settlement funds. (FAC ¶¶ 28-29.) Waibel, a California resident, was retained as the trustee, with the trust set up to operate out of his California office. (FAC ¶¶ 28-29.) Plaintiff alleges Waibel was hired as trustee because he was obedient and easily manipulated.

In September 2000, Defendants applied to the Guam court to move Plaintiff to California and to deem Waibel Plaintiff's operative guardian while he was away from Guam. (FAC ¶ 37.) Thereafter, at some point in time "well after the [Settlement Agreement] and while Waibel was Junior's operative guardian," Defendants embarked upon a scheme to wrongfully and fraudulently increase the contingency fee from 38% to 56%. (FAC ¶¶ 38, 40.) To effectuate this scheme, Lujan allegedly submitted to the Guam Guardianship Court for approval, ex parte and under seal, the amended retainer agreement. It was "rubber-stamped" on September 8, 2002, and Defendants allegedly fraudulently backdated the increased fee agreement to April 15, 1999 in order to capitalize on the full settlement distribution. (FAC ¶ 41.) Plaintiff alleges Defendants furthered their scheme to defraud by continuously submitting false filings and accountings to the Guam Guardianship court. It was not until November 10, 2006, when an FBI agent disclosed this alleged scheme to Plaintiff did Plaintiff learn of Defendants' wrongdoing. (FAC ¶ 49.) Plaintiff alleges a tolling agreement was executed as to all claims. (FAC ¶ 50.) This lawsuit was filed shortly thereafter.

II. DISCUSSION[3]

By his Motion to Dismiss, Lujan makes a plethora of arguments. Generally, he argues (1) Plaintiff lacks standing to sue; (2) Lujan is not subject to personal jurisdiction in California; (3) Plaintiff's claims are barred by *res judicata* and collateral estoppel; (4) Plaintiff's claims are time-barred; (5) Plaintiff failed to join necessary and indispensable parties; (6) Plaintiff's claims are governed by a forum selection clause; and (7) Plaintiff fails to state claims for relief. To the extent necessary, the Court addresses each in turn.

A. Plaintiff has standing to bring this action

Lujan contends Plaintiff has no standing to sue in his own name because he is a trust beneficiary

[3] Lujan raises many alternative arguments in favor of dismissal, with each having a distinct, applicable legal standard. In an effort to avoid confusion, the Court dispenses with what would normally be a "Legal Standard" section and instead highlights, to the extent necessary, each applicable standard in its discussion of Lujan's arguments.

O

UNITED STATES DISTRICT COURT
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CIVIL MINUTES - GENERAL

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and as such, not a real party in interest, as required by Fed. R. Civ. P. 17(a).[4] As a general rule, the trustee, and not the trust's beneficiary, is the real party in interest with standing to sue and defend on the trust's behalf. *See Wolf v. Mitchell, Silberberg & Knupp*, 76 Cal. App. 4th 1030, 1035-36 (Ct. App. 1999).[5] California courts have a well-established exception, however. "[A] trust beneficiary can pursue a cause of action against a third party who actively participates in or knowingly benefits from a trustee's breach of trust." *In re Estate of Bowles*, 169 Cal. App. 4th 684, 692 (Ct. App. 2008) (citing numerous cases). Plaintiff's entire FAC is replete with allegations of a broad conspiracy to defraud Plaintiff out of millions of dollars. Central to that scheme are allegations that Lujan (and Israel) performed legal services intended to prevent Plaintiff from discovering the existence of the 56% retainer, including Waibel's participation and consent to such an agreement without first obtaining Plaintiff's informed consent. The Court therefore concludes that consistent with the decisions of numerous California Courts which have considered the issue, Plaintiff has standing to bring this action despite his status as a trust beneficiary.

B. The Court lacks personal jurisdiction over Lujan

Where a defendant moves to dismiss a complaint for lack of personal jurisdiction, the plaintiff bears the burden of demonstrating that jurisdiction is appropriate. *Sher v. Johnson*, 911 F.2d 1357, 1361 (9th Cir. 1990). Where, as here, the motion is based on written materials rather than an evidentiary hearing, the plaintiff must make "a prima facie showing of facts supporting jurisdiction through its pleadings and affidavits to avoid dismissal." *Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarain Co.*, 284 F.3d 1114, 1119 (9th Cir.2002); *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004). If the plaintiff makes the requisite prima facie showing, the plaintiff retains the burden of proving personal jurisdiction by a preponderance of the evidence at a later stage of the proceedings, either at an evidentiary hearing or at trial. *See Data Disc., Inc. v. Sys. Tech. Assoc., Inc.*, 557 F.2d at 1285. When not directly controverted, plaintiff's version of the facts must be taken as true, and conflicts between the facts contained in the parties' affidavits should be resolved in favor of the plaintiff. *Doe v. Unocal Corp.*, 248 F.3d 915, 922 (9th Cir.2001).

Personal jurisdiction over each defendant must be analyzed individually. *See Calder v. Jones*, 465 U.S. 783, 790 (1984). "Due process requires that nonresident defendants have certain minimum contacts with the forum so that maintenance of a suit does not offend traditional notions of fair play and substantial justice." *See FDIC v. British-American Ins. Co.*, 828 F.2d 1439, 1441-42 (9th

[4] Fed. R. Civ. P. 17(a)(1) states, in pertinent part: "an action must be prosecuted in the name of the real party in interest."

[5] As neither party contends otherwise, the Court applies California law to this issue.

O

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 09-0841 ODW (CTx)	Date	March 24, 2010
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Cir.1987). "If the nonresident defendant's activities within a state are 'substantial' or 'continuous and systematic,' there is a sufficient relationship between the defendant and the state to support jurisdiction even if the cause of action is unrelated to the defendant's forum activities ." *See Data Disc*, 557 F.2d at 1287. "If, however, the defendant's activities are not so pervasive as to subject him to general jurisdiction, the issue whether jurisdiction will lie turns on an evaluation of the nature and quality of the defendant's contacts in relation to the cause of action." *See id.* The former is known as "general personal jurisdiction," and the latter, "specific personal jurisdiction." *See Panavision Int'l, L.P. v. Toeppen*, 141 F.3d 1316, 1320 (9th Cir. 1998).

As a preliminary matter, the Court finds that it is without general jurisdiction over Lujan. Indeed, Lujan only briefly attended school in California, maintains a mere passive website and otherwise has no continuous and systematic contacts that "approximate physical presence" in the forum state, as is ordinarily required for general personal jurisdiction. *See Schwarzenegger*, 374 F.3d at 801. Accordingly, only specific jurisdiction is at issue. It is addressed below.

1. Specific Jurisdiction

"Under specific jurisdiction, a court may assert jurisdiction for a cause of action that arises out of the defendant's forum-related activities." *Rano*, 987 F.2d at 588 (citation omitted). The Ninth Circuit has established a three-part test for determining when a court may exercise specific jurisdiction: (1) the defendant must perform an act or consummate a transaction within the forum, purposefully availing himself of the privilege of conducting activities in the forum; (2) the claim must arise out of or result from the defendant's forum-related activities; (3) the exercise of jurisdiction must be reasonable. *Pebble Beach Co. v. Caddy*, 453 F.3d 1151, 1155 (9th Cir.2006). "The plaintiff bears the burden of satisfying the first two prongs of the 'minimum contact' test." *Id.* (citing *Schwarzenegger*, 374 F.3d at 802 (internal citation omitted)). "If the plaintiff fails to satisfy either of these prongs, personal jurisdiction is not established in the forum state. If the plaintiff succeeds in satisfying both the first two prongs, the burden then shifts to the defendant to 'present a compelling case' that the exercise of jurisdiction would not be reasonable." *Schwarzenegger*, 374 F.3d at 802 (citation omitted)

The purposeful availment prong of the test is "treated . . . somewhat differently in tort and contract cases." *Yahoo! Inc. v. La Lique Contre Le Racisme Et L'Antisemitisme*, 433 F.3d 1199, 1206 (9th Cir. 2006). When confronted with a claim in tort, the court must "inquire whether a defendant 'purposefully directed his activities' at the forum state, applying an effects test that focuses on the forum in which the defendants' actions were felt." *Id.* To satisfy the effects test, a defendant must have: "(1) committed an intentional act, (2) expressly aimed at the forum state, (3) causing harm that the defendant knows is likely to be suffered in the forum state." *Dole Food Co., Inc. v. Watts*, 303 F.3d 1104, 1111 (9th Cir. 2002). Under this test, a defendant need not have had physical contact with the

O

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CIVIL MINUTES - GENERAL

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forum state for a court to exercise its jurisdiction. *Brainerd v. Governors of the Univ. of Alberta*, 873 F.2d 1257, 1260 (9th Cir. 1989).

For its *prima facie* showing of personal jurisdiction, Plaintiff relies exclusively on the allegations set forth in his FAC. Therein, Plaintiff asserts six causes of action against Lujan, some of which–Fraud, RICO and Cal. Bus. & Prof. Code § 17200–are grounded in tort. For these claims, the "effects test" applies. *See Holland Am. Line Inc., v. Wartsila N. Am. Inc.*, 485 F.3d 450, 460 (9th Cir. 2007) ("It is well established that the [effects] test applies only to intentional torts, not to . . . breach of contract and negligence claims.").

a. Purposeful Direction

The first prong of the effects test requires the Court to find that Lujan committed an intentional act. "'Intent' in the context of the 'intentional act' test refer[s] to an intent to perform an actual physical act in the real world, rather than an intent to accomplish a result or consequence of that act." *Schwarzenegger*, 374 F.3d at 806. An "'act' denotes an external manifestation of the actor's will." *Id.* (quoting The Restatement (Second) of Torts § 2 (1964)).

For quite some time, the Court has scoured through Plaintiff's generally vague and conclusory FAC to find allegations of "intentional acts" committed by Lujan. Its search has yielded a few allegations that may be characterized as intentional acts. For example, apart from Lujan's court appearances, investigations, meetings and depositions in California relating to Lujan's representation of Plaintiff–all of which appear to be irrelevant as they are unrelated (and were completed prior) to the facts giving rise to the claims alleged in this case–Plaintiff generally alleges the following: (1) that Waibel "receiv[ed] interstate instructions in California from [Lujan] by telephone, email, mail and the internet . . . ." (FAC ¶¶ 6, 90); (2) that Lujan entered into the 56% retainer that was never approved by Plaintiff or his guardians (FAC ¶ 73); (3) that Lujan, on more than one occasion, submitted allegedly fraudulent documents to the Guam courts in which Defendants represented that the amended, 56% retainer was in the best interests of Plaintiffs (FAC ¶ 73); and (4) that Lujan submitted accounting statements to the Guam courts for unsubstantiated costs (FAC ¶ 73.) Though wanting, the Court surmises that allegations relating to some of the phone calls, emails, and mailings by Lujan to Waibel's office in California were in furtherance of Defendants' alleged scheme to defraud Plaintiff. For that reason, the Court finds these acts constitute relevant "intentional acts" for purposes of the effects test, and will assume that the intentional act prong has been met.

Next, the Court must consider whether Lujan expressly aimed his intentional acts at California. The "express aiming" requirement is met when "the defendant is alleged to have engaged in wrongful conduct targeted at a plaintiff whom the defendant knows to be a resident of the forum state." *Bancroft*

O

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CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

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& Masters, Inc. v. Augusta Nat'l, Inc., 223 F.3d 1082, 1087 (9th Cir. 2000). Acts that have merely foreseeable effects in the forum state are insufficient. *Id.*

Here, the Court finds that Plaintiff has not met his burden with respect to the express aiming requirement of the purposeful direction test because Plaintiff makes no specific allegation that Lujan knew Plaintiff was a resident of California during the time he embarked upon his scheme to defraud. To begin, the FAC fails to allege when the scheme originated. The only allegation shedding any sort of light upon this is found in Paragraph 38 of the FAC. It reads, in pertinent part, "*[a]t some point in time* well after the Saipan Hillblom Estate Court approved the Hillblom Global Settlement Agreement on April 7, 2000 and while Junior was under Waibel's guardianship powers and control, Defendants embarked on a scheme to wrongfully and fraudulently increase the Attorneys' contingency fees from 38% to 56%." (FAC ¶ 38) (emphasis added). Considering the FAC alleges that Waibel served as Plaintiff's guardian from his appointment on September 8, 2000, through May 16, 2002,[6] the date Plaintiff reached the age of majority, (FAC ¶ 37; Opp'n at 4), Plaintiff provides an approximate *one and a half year* window in which the alleged scheme to defraud could have been formulated. Complicating matters further, the FAC makes no allegation as to whether Plaintiff was in California this entire time. Indeed, at some point (it is not alleged when), Plaintiff moved from the California treatment center and began attending school in Idaho, where, according to the FAC, he resides to this day.[7] Essentially, the FAC's vague allegations provide no clarification as to where Plaintiff resided at the time Lujan embarked upon his fraudulent scheme, whenever that may have been. This proves highly significant because, as noted above, Lujan's intentional acts must have been "targeted at a plaintiff whom the defendant knows to be a resident of the forum state." *Bancroft & Masters, Inc.*, 223 F.3d at 1087. For personal jurisdiction purposes, Plaintiff's allegations are insufficient.

To be sure, in his opposition, Plaintiff contends that he legally resided in California at the time Defendants perpetrated their scheme because Waibel, Plaintiff's guardian, was a California resident. Plaintiff relies on Cal. Wel. & Inst. Code § 17.1(a) in support of this argument. In pertinent part, it reads, "[t]he residence . . . of any individual who has been appointed legal guardian . . . determines the

[6] Pursuant to the guardianship court's September 8, 2000 order, Plaintiff was relocated from Guam to a hospital in Port Hueneme, California. Waibel was appointed as Plaintiff's guardian while Plaintiff was outside of his native Guam. (FAC ¶ 37.)

[7] Lujan provides exhibits suggesting that Plaintiff was no longer in California, and was attending high school in Idaho, as early as May 2001. (Lujan Decl., Exhs. 31-32.)

O

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CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

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residence of the child."[8] Without more, however, the Court is reluctant to impart upon Lujan this sort of attenuated, constructive knowledge of Plaintiff's residency. *Cf. Lane v. Micro-Focus, Inc.*, 2009 U.S. Dist. LEXIS 116760, at *7-8 (W.D. Wash. 2009) (finding specific allegations such as "the residences of the sales personnel around the company was [sic] generally known and generally reflected in the ordinary course of business at Micro Focus," and "[his] location in Washington was particularly known as a result of Micro Focus' business relationship with Microsoft" sufficient to satisfy the second prong of the effects test); *Browne v. McCain*, 612 F. Supp. 2d 1118, 1125 (C.D. Cal. 2009) (finding allegation that plaintiff is a well-known Southern California resident, without more, insufficient to establish defendant knew its improper act would cause plaintiff harm in California).[9] Plaintiff, therefore, has not established that defendant expressly aimed his intentional acts (if any) at the forum state, or that those acts would cause Plaintiff harm in California. As a result, Plaintiff has not shown purposeful direction.

b. Reasonableness

Nevertheless, even assuming Plaintiff is able to meet his burden under the specific jurisdiction analysis, jurisdiction over Lujan in this forum is unreasonable. In noting as much, the Court considers seven factors:

> The extent of purposeful availment; the burden on the defendant; the extent of conflict with sovereignty of the defendant's state; the forum state's interest in adjudicating the suit; the most efficient judicial resolution of the dispute; the convenience and effectiveness of relief for the plaintiff; and the existence of an alternative forum.

Sinatra v. Nat'l Enquirer, Inc., 854 F.2d 1191, 1198-99 (9th Cir. 1988).

These factors, on balance, demonstrate that subjecting Lujan to jurisdiction in this state would

[8] Plaintiff also relies on Cal. Educ. Code § 68062(f), but, as Lujan notes, that section is inapposite to the Court's personal jurisdiction inquiry as it more appropriately pertains to student residency requirements. In any event, the Court notes subsection (g), which reads, in pertinent part, "The residence of an unmarried minor who has a parent living cannot be changed by . . . the appointment of a legal guardian . . . .

In any event, considering the fact that Waibel's guardianship over Plaintiff was established pursuant to a Guam Court order, and presumably under the laws of Guam, the applicability of these California statutes, including Cal. Wel & Inst. Code § 17.1(a), are questionable. The fact that any change in guardianship would necessarily need to be approved in the first instance by the Guam Court, moreover, casts further doubt on the applicability of these aforementioned statutes.

[9] The cases Plaintiff cite to the contrary are inapposite.

O

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CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 09-0841 ODW (CTx)	Date	March 24, 2010
Title	*Junior Larry Hillbroom v. David J. Lujan, et al.*		

be unreasonable. To begin, Lujan has not extensively interjected himself into the state of California. Apart from the assumed telephone calls and emails sent to Waibel in California, the extent of Lujan's contacts appear to be limited to mandatory court appearances related to Plaintiff's previous estate proceedings–all of which took place prior to Waibel's appointment as trustee and Plaintiff's subsequent move to California. And to the extent Plaintiff points to Lujan's website as evidence that he actively practices law in California,[10] Lujan has controverted those allegations and, in any event, his passive website, standing alone, is insufficient to confer jurisdiction. *See Holland*, 485 F.3d at 460 ("We consistently have held that a mere web presence is insufficient to establish personal jurisdiction.").

Though not extensively briefed by either party, the Court surmises that there may ultimately be a conflict between the sovereignties of California and Guam. Other than his RICO claim, Plaintiff alleges against Lujan state law claims of fraud, breach of fiduciary duty and legal malpractice, the latter two of which relating to a retainer agreement entered into with a licensed Guam attorney. Throw in the myriad Guam court orders and governing guardianship laws, and this factor is anything but resolved in Plaintiff's favor.

What tips the scale, though, is the fact apart from Waibel's office being located in California, California really has no interest whatsoever in seeing this action through. For starters, Plaintiff is a citizen of Idaho and not of California. (FAC ¶ 1.) California therefore does not have an interest in this case such as would exist if it were providing an effective means of redress for one of its citizens. *See Sinatra*, 854 F.3d at 1200. Guam or the CNMI, on the other hand, are alternative forums that can more efficiently, conveniently and effectively resolve Plaintiff's claims against Lujan. Indeed, it appears as though the vast majority of relevant witnesses and evidence are located outside of California, and more likely than not can be found in Guam or the CNMI. All relevant court documents, Plaintiff's family, and, presumably Lujan's associates are located in either Guam or the CNMI.[11] The Guam Guardianship court was charged with approving the retainer agreements at issue in this case (which it did on two separate occasions), and Lujan's alleged extrinsic fraud in shielding Plaintiff's representatives from learning of the 56% retainer was committed in Guam. Guam or the CNMI are thus alternative forums where Plaintiff could potentially bring his claims against Lujan, and Plaintiff has failed to demonstrate otherwise. *See Pacific-Atlantic Trading Co. v. M/V Main Express*, 758 F.2d 1325, 1331 (9th Cir. 1985) (plaintiff bears the burden of proving unavailability of an alternative

[10] In fact, the Court takes judicial notice of the fact that Lujan is *not* licensed to practice law in California. *See* http://members.calbar.ca.gov/search/member_search.aspx?ms=lujan (noting that a different David J. Lujan is licensed to practice law in California).

[11] Indeed, Plaintiff contends he has had extreme difficulty in obtaining access to court documents from the Guam and CNMI proceedings.

O

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 09-0841 ODW (CTx)	Date	March 24, 2010
Title	*Junior Larry Hillbroom v. David J. Lujan, et al.*		

forum). For these reasons, exercising jurisdiction over Lujan in California would be unreasonable.[12]

III. CONCLUSION

For the foregoing reasons, the Court finds it lacks personal jurisdiction over Lujan. Lujan's Motion to Dismiss based on a lack of personal jurisdiction is GRANTED. Plaintiff's FAC is therefore DISMISSED as to Lujan. Plaintiff's request for jurisdictional discovery is denied and the remainder of Lujan's arguments in favor of dismissal are MOOT. Having no occasion to opine on the sufficiency of Plaintiff's claims, the Court cannot meaningfully address the arguments raised by Lujan's Fed. R. Civ. P. 11 Motion for Sanctions. Lujan's Rule 11 Motion is therefore DENIED AS MOOT. Also MOOT in light of the Court's dismissal of all claims against Lujan for lack of personal jurisdiction is counsel's Motion to Withdraw. The April 5, 2010 hearing on the Motion to Withdraw is therefore VACATED and no appearances are necessary.

Plaintiff's Motion for an Extension of Time to File Proof of Service and for Alternate Service with respect to Defendant Barry Israel [40] shall be heard, if necessary, at the Scheduling Conference set for **April 26, 2010 at 1:30 p.m.**

IT IS SO ORDERED.

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[12] For the same reasons, so too would jurisdiction over Lujan be unreasonable with respect to Plaintiff's malpractice and breach of fiduciary duty claims.