

7-22-2016

Newsroom: Monestier on Web Jurisdiction 7/22/ 2016

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Rhode Island Lawyers Weekly

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Recommended Citation

Murphy, Pat and Roger Williams University School of Law, "Newsroom: Monestier on Web Jurisdiction 7/22/2016" (2016). *Life of the Law School (1993-)*. 560.
https://docs.rwu.edu/law_archives_life/560

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Newsroom

July 22, 2016

Monestier on Web Jurisdiction

Professor Tanya Monestier explains why courts are struggling to come up with a practical framework for dealing with the issue of web-based jurisdiction.

From Rhode Island Lawyers Weekly: “Judges feeling their way on web-based jurisdiction issue” by Pat

Murphy



July 21, 2016: Lawyers investigating whether an out-of-state defendant’s operation of a website provides a basis for suing the party in local federal court will find few bright-line rules coming from decisions issued in the 1st Circuit. [...]

Courts are having a difficult time coming up with a practical framework for dealing with the issue of web-based jurisdiction, said **professor Tanya J. Monestier of Roger Williams University School of Law.**

“Jurisdiction is very territorially based and the internet is not,” **Monestier said.** “Courts are struggling to use these very traditional frameworks in the internet age.” [...]

[I]n determining personal jurisdiction, **U.S. District Court Judge [and RWU Law adjunct professor] William E. Smith** found it significant that the lawyers created a website offering to “represent [clients] regardless of where [they] live” and to handle claims in all 50 states.

“Defendants made themselves out to be a nationwide law firm representing clients throughout the country,” **Smith wrote.** “With the benefits of a nationwide law practice come certain risks.”



Monestier said targeting with a website can take many forms. In addition to making express offerings of products or services to customers in particular states or all 50 states, as the law firm in Dennett did, websites may offer “click here” functions for users according to their state, Monestier said.

She added that lawyers would want to look to whether a defendant purchased Google ad words or hired a search engine optimization service to help drive out-of-state traffic to their websites.

“That would probably suffice for purposeful availment,” **she said**.