



STATE OF CONNECTICUT
JUDICIAL BRANCH

COURT OPERATIONS DIVISION

OFFICE of CHIEF DISCIPLINARY COUNSEL

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Joseph Del Ciampo, Esq.
Director of Legal Services
Counsel to the Superior Court Rules Committee
Via email Joseph.DelCiampo@jud.ct.gov

RE: Proposal of the Connecticut Bar Association to amend Rule 5.5 of the Connecticut Rules of Professional Conduct to permit practice pending admission

Dear Attorney Joseph Del Ciampo:

The Office of Chief Disciplinary Counsel has been asked to comment on the proposal of the Connecticut Bar Association's Standing Committee on Professional Ethics to amend Rule 5.5 of the Rules of Professional Conduct to permit legal practice by an out-of-state attorney pending admission in Connecticut. The Office of Chief Disciplinary Counsel objects to the proposal as submitted because the rule provides for no procedure to identify and monitor an out-of-state attorney's commencement and practice of law in Connecticut.

Section (d) provides that a lawyer admitted in another jurisdiction may provide legal services "on a temporary basis" in this jurisdiction provided that he or she complies with two subsections. This section allows an attorney to "provide legal services..." This term is not defined or limited in any way. Without any expressed restriction, the attorney can undertake the practice of law without limitation. As written, this amendment would allow an out-of-state attorney to commence representation of a client, file pleadings in court and appear on behalf of clients before the court. This would be done without the lawyer even being issued a juris number. In contrast, subsection (ii) requires the out-of-state attorney to advise a potential client that he or she is not admitted to practice in this jurisdiction. This is

contradictory on its face. The client cannot make an informed decision regarding seeking legal advice and representation as this amendment is drafted.

There are substantial problems with the subsections. The out-of-state lawyer may undertake representation in Connecticut provided; Subsection “(i) [The lawyer] files an application for admission by motion, by transfer of UBE score, or by examination within a reasonable time, not to exceed six months, after first engaging in practice in this jurisdiction”. We cannot allow an attorney to be within the state, practicing law, for up to six months without any notification to the Bar Examining Committee or the Statewide Grievance Committee. There is no requirement that the foreign attorney notify any committee or agency in Connecticut that they are practicing here, unlicensed, and that the clock is running on the six month application time period. If something goes wrong and my office is contacted by a client of an out-of-state lawyer our investigation would disclose that the attorney is not admitted to practice in Connecticut and we would conclude that he or she is committing the unauthorized practice of law. The rule, as written, would not preclude an attorney from practicing for any length of time, and only when questioned, may indicate that they still have several months in which to file. Simply, we are left with the situation that an attorney, not admitted to practice law in Connecticut, is practicing law in Connecticut. Nothing prevents the attorney from coming to Connecticut and practicing for five months and then leaving for a period of time and then returning only to restart the six-month clock.

As written, the proposed amendment does not even require the out-of-state attorney to actually relocate to Connecticut to commence the practice of law during the six month time period. An out-of-state attorney can associate with a Connecticut attorney and begin practicing law in Connecticut for up to six months on a trial basis. The stated purpose in the commentary is to assist an attorney who may need to relocate to this jurisdiction on short notice. Unfortunately, the requirement that the out-of-state attorney have an active job offer or a stated reason for commencing practice in Connecticut on short notice is not part of the criteria.

Connecticut has other procedures for allowing out-of-state attorneys to practice law in Connecticut on a temporary basis. Each of those procedures,

Authorized House Counsel, Foreign Legal Consultant, Multijurisdictional Practice and admission *pro hac vice* requires the filing of an application prior to the commencement of legal services. Basically stated, we cannot have individuals merely coming to Connecticut and commencing the practice of law for up to six months without any registration at all.

The out-of-state lawyer must also; Subsection “(ii) [associate] with a lawyer who is admitted in this jurisdiction”. This subsection lacks any kind of guidance on the limitations, if any on the out-of-state lawyer’s presence in Connecticut. The out-of-state lawyer must “associate” with a lawyer admitted in this jurisdiction. Must the lawyer with whom he or she associates be in the same firm? Must the lawyer with whom he or she associates be in the same building? In a different town? A different state? Furthermore the amendment does not identify to what degree the Connecticut admitted attorney must associate with the out-of-state attorney. Does the foreign attorney need to be monitored by the Connecticut admitted attorney? Is the Connecticut admitted attorney responsible for the conduct of the out-of-state attorney? Does this association need to be in writing and are there any terms required? Can the Connecticut admitted attorney have an extensive disciplinary history? Furthermore, this section does not provide any limitation on the activities of the out-of-state attorney.

The six-month window to file the application is unnecessarily long. If the out of state attorney diligently prepares and files an application he or she can be admitted within a month or two. There is no data provided that this is even an issue that needs to be addressed. Are we concerned that there are lawyers legitimately trying to relocate to Connecticut that need this amendment to secure a job or is this just going to be an open invitation to lawyers to undertake the unauthorized practice of law in Connecticut. There is reason for concern that a lawyer with an extensive disciplinary history in another state may take advantage of this procedure to practice law for six months, file an application, continue to practice law while the application is pending and only be required to stop after a year has passed when they are not admitted due to issues regarding fitness.

Allowing an out-of-state, non-Connecticut licensed lawyer to commence practice in this state for up to six months without any kind of registration or notification is tantamount to allowing the unregulated practice of law by certain individuals and there is serious danger of Connecticut clients suffering harm. The Office of Chief Disciplinary Counsel objects to this amendment.

Please feel free to contact me should you have any questions.

Very truly yours,



Brian B. Staines
Chief Disciplinary Counsel

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