

PRACTICE TIPS FROM BAR COUNSEL

IF IT'S A NEVADA MATTER, SHOW US A NEVADA LICENSE.

BY PHIL PATTEE, ASSISTANT BAR COUNSEL, STATE BAR OF NEVADA

“Beware of false prophets, which come to you in sheep’s clothing, but inwardly they are ravening wolves.”¹

The scenario is usually the same. Some tourist from California slips in a Nevada casino, or gets mauled by a tiger, or whatever, and then limps back home.

Once healthy enough to use a telephone, the tourist contacts his or her California lawyer to sue somebody in Nevada. The California lawyer, who of course plans on taking the customary one-third cut of any settlement, is then on the phone demanding money as part of a potential personal injury case.

For some reason, many lawyers think they can handle any matter in any jurisdiction, so long as they are standing in a state where they are licensed. They believe that a law license in Nevada isn’t necessary until a complaint is filed in court.

A potential civil action can involve Nevada law, Nevada facts and Nevada jurisdiction, but the California lawyer doesn’t think a Nevada license is necessary. However, with very few exceptions, that attorney is wrong.

All jurisdictions deal with out-of-state attorneys slipping electronically over the state line. For us, the problem is magnified because of the 800-pound gorilla to our west. California has about as many attorneys (222,027)² as Reno has residents. That’s a bunch of non-Nevada attorneys just down the road.

Pursuant to NRS 7.285, a person cannot practice law in our state unless he or she is an active member of the State Bar of Nevada or is otherwise authorized to practice law by the Supreme Court Rules.

And the Nevada Supreme Court recently ruled that “the practice of law includes activities calling for the exercise of trained judgment in applying the general body of legal knowledge to the specific problem of a client and recommending a course of action.”³

Broken down, that means applying law to facts on behalf of another person.

So, if somebody is applying law to facts for somebody else in a Nevada matter, he/she needs a Nevada license or must be “otherwise authorized” by Supreme Court Rules.

State statutes and Supreme Court Rules do not permit non-Nevada attorneys to automatically practice law here even though they are allowed to practice somewhere else. But some of them just don’t get it.

So, what do you do when you get a demand in a Nevada matter from an attorney who’s not licensed in Nevada? Just say no.⁴

Then, feel free to stand your ground when the threats begin. Remember, you’re essentially dealing with a non-lawyer and, therefore, the opposing party might be able to unwind any agreement that you reach with someone not authorized to practice here.

Finally, you can pass along a friendly reminder about reciprocal discipline. After all, you have a duty to report substantial breaches of ethics rules to the Office of Bar Counsel in Nevada,⁵ and a violation of Rule of Professional Conduct 5.5 (Unauthorized Practice of Law) will qualify nicely. And yes, Nevada can impose discipline upon non-Nevada attorneys trying to practice law here.⁶

Fortunately, California and other states usually pay attention when their attorneys receive professional discipline in another jurisdiction.

Because cross-state interlopers often are wolves in sheep’s clothing, their baying usually stops at the thought of reciprocal discipline. And then they go away. **NL**



1 Matthew 7:15.

2 State Bar of California membership, February 24, 2009.

3 *In the Matter of Discipline of Glen Lerner, Esq.*, 197 P.3d 1067, 1078 (Dec. 24, 2008).

4 Nancy Reagan, 1982.

5 Rule of Professional Conduct 8.3 (Reporting Professional Misconduct).

6 Supreme Court Rule 99 (Jurisdiction).

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