

**STATE BAR OF NEVADA**  
**STANDING COMMITTEE ON**  
**ETHICS AND PROFESSIONAL RESPONSIBILITY**

**Formal Opinion No. \_**

**QUESTIONS PRESENTED**

1. Does utilization of a "coworking" office location for the practice of an attorney admitted in Nevada constitute maintaining an office in Nevada under SCR 42.1?
2. Is an attorney admitted in Nevada and using a "coworking" office location in Nevada but not otherwise maintaining an office in Nevada subject to the advertising filing requirements of NRPC 7.2A with regard to the attorney's business cards, letterhead and website?

**ANSWER TO QUESTION ONE**

No, utilization of a "coworking" office location for the practice of an attorney admitted in Nevada does not constitute maintaining an office in Nevada under SCR 42.1, and the nonresident attorney should associate with or designate Nevada counsel in strict compliance with the Rule.

**DISCUSSION**

This Committee previously examined the subject of what constitutes maintaining an office in Nevada under a former version of Nevada Supreme Court Rule (SCR) 42(10):

The legitimate interests of the Nevada courts and Nevada clients which support SCR 42 cannot be served by a nonresident attorney who uses as an office in this state a space located within the confines of another client's business, which is staffed by persons who are not employed directly by the attorney, but by the client.

State Bar of Nevada Standing Committee on Ethics and Professional Responsibility, Formal Op. No. 19, June 16, 1994. Subsection 10 of SCR 42 was subsequently revised and readopted in current form as SCR 42.1 on September 24, 2002. As this Committee further noted in Formal Op. No. 19:

[The Rule] requires something more than a mail stop as an office, but does not specify the nature of the "office" specifically contemplated, except that such office must be available for the service of papers, process and pleadings upon the attorney, which in Nevada may include delivery to the attorney in person as well as by mail.

“Coworking” has developed as a common business services provision model that involves individuals working independently or collaboratively in shared office space, allowing cost savings and convenience. The use of a "coworking" office location by a nonresident attorney may give rise to many of the concerns raised in Formal Op. No. 19, including the ability to comply with the client confidentiality requirements of NRPC 1.6. While not strictly prohibited under the Rules,

utilization of a "coworking" office location does not constitute maintaining an office in Nevada under SCR 42.1.

SCR 42.1(2) sets forth specific requirements for the practice of an attorney who is admitted to practice in Nevada but who does not maintain an office in Nevada:

Upon filing any pleadings or other papers in the courts of this state, an attorney who is subject to this rule shall either associate a licensed Nevada attorney maintaining an office in Nevada or designate a licensed Nevada attorney maintaining an office in the county wherein the pleading or paper is filed, upon whom all papers, process, or pleadings required to be served upon the attorney may be so served, including service by hand-delivery or facsimile transmission. The name and office address of the associated or designated attorney shall be endorsed upon the pleadings or papers filed in the courts of this state, and service upon the associated or designated attorney shall be deemed to be service upon the attorney filing the pleading or other paper.

This Committee, citing *Barnard v. Thorstenn*, 489 U.S. 546, 109 S. Ct. 1294, 103 L. Ed. 2d 559 (1989), highlighted in Formal Op. No. 19 the policy considerations in favor of nonresident attorneys associating local counsel:

[T]he U.S. Supreme Court has suggested two possible legitimate justification for requiring the association of local counsel by nonresident members of the Nevada Bar, those being to assure that attorneys representing clients in litigation matters in this state are readily accessible to the courts, and that such attorneys are committed to the best interests of the state bar in which they are practicing, though not residing.

A nonresident attorney utilizing a "coworking" office location should associate with or designate Nevada counsel in strict compliance with SCR 42.1(2) when practicing in Nevada courts. *See, e.g., Naimo v. Fleming*, 95 Nev. 13, 14 n.1, 588 P.2d 1025, 1026 n.1 (1979).

### **ANSWER TO QUESTION TWO**

No, an attorney admitted in Nevada and using a "coworking" office location in Nevada but not otherwise maintaining an office in Nevada is not subject to the advertising filing requirements of NRPC 7.2A with regard to the attorney's business cards, letterhead and website.

### **DISCUSSION**

NRPC Rule 7.2A(a) states in relevant part:

A lawyer or law firm shall file with the state bar (1) a copy or recording of all advertisements disseminated in exchange for something of value; and (2) written or recorded communications the lawyer causes to be disseminated for the purpose of advertising legal services. For the purpose of this Rule, websites are not considered to be advertisements subject to filing requirements.

Business cards, letterhead and websites are not within the scope of the filing requirements imposed by Rule 7.2A. However, any paid advertisement or marketing material disseminated in Nevada is subject to the filing requirements.

### **CONCLUSION**

Utilization of a "coworking" office location for the practice of an attorney admitted in Nevada does not constitute maintaining an office in Nevada under SCR 42.1, and the nonresident attorney should associate with or designate Nevada counsel in strict compliance with the Rule. An attorney admitted in Nevada and using a "coworking" office location in Nevada but not otherwise maintaining an office in Nevada is not subject to the advertising filing requirements of NRPC 7.2A with regard to the attorney's business cards, letterhead and website.

**This opinion is issued by the Standing Committee on Ethics and Professional Responsibility of the State Bar of Nevada, pursuant to S.C.R. 225. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, its Board of Governors, any person or tribunal charged with regulatory responsibilities, or any member of the State Bar.**

### **AUTHORITIES**

SCR 42

SCR 42.1

NRCP 7.2A

State Bar of Nevada Standing Committee on Ethics and Professional Responsibility, Formal Op. No. 19, June 16, 1994

*Barnard v. Thorstenn*, 489 U.S. 546, 109 S. Ct. 1294, 103 L. Ed. 2d 559 (1989)

*Naimo v. Fleming*, 95 Nev. 13, 588 P.2d 1025 (1979)