

SUPPLEMENTAL REPORT
OF THE
SUPREME COURT OF NEVADA
COMMISSION ON
MULTIJURISDICTIONAL PRACTICE

May 2002

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I. Introduction

The Supreme Court Commission on Multijurisdictional Practice (MJP) presented its Report to the Court on November 30, 2001. By order of the Court issued on January 18, 2002, a period for public comment was established which ended on March 25, 2002. Thereafter, the Commission was directed to meet and consider the public comments and any additional issues brought to its attention, and to provide the Court with a Supplemental Report and the public comments themselves prior to May 25, 2002.

The Commission received and considered the public comments and additional materials (including the Interim Report of the American Bar Association Commission on MJP) that are contained in Appendix A filed with this Supplemental Report. The Commission held additional meetings on April 4 and May 14, 2002, and, thereafter, the draft of this Supplemental Report was circulated among the members of the Commission prior to filing. The Commission did reconsider and revised several of its prior recommendations and affirmed others. The proposed Supreme Court Rules required to implement these revisions were further refined and reorganized, and the Court is asked to consider hereafter only the version of the Rules contained in Attachment A to this Supplemental Report.

The format of this report will, as appropriate, follow that of the Report filed in November for ease of reference.

II. Revised Executive Summary

The Commission remained unanimous in its view that certain changes should be made to the current scheme in Nevada for the regulation of attorneys licensed in other jurisdictions. Such changes would provide protection for Nevada's citizens and business entities while expanding and clarifying the practice of law in this state by out-of-state practitioners. The Commission reached (and reaffirmed) the following broad conclusions as explained more fully herein:

- In general, admission to practice in Nevada should continue

to be predicated on the taking and passing of the Nevada bar examination;

- Nevada lawyers should bear primary responsibility for legal services performed within the state for a Nevada client;
- *Pro hac vice* admission should be continued and expanded to include practice before governmental agencies and in court-annexed or statutorily-required mediations and arbitrations;
- “Safe harbors” for occasional practice should be established; however, a system of registration should be developed for out-of-state lawyers involved in non-litigation matters to permit monitoring of the work being performed in this state;
- Admission for limited purposes should be available to corporate or governmental counsel;
- SCR 49.3 (legal services attorneys) should be expanded to provide for licensure of unlimited duration while in the employ of a non-profit legal services provider [enacted by the Court on February 6, 2002];
- Current SCR 199 (firm names) should be replaced by ABA Model Rule 7.5 (with certain modifications); and
- A system of registration should be developed for multi-state law firms desiring to do business in Nevada.

III. Issues and Recommended Solutions

A. UNAUTHORIZED PRACTICE OF LAW

The Commission considered a number of comments regarding the “safe harbors” created in the originally proposed revisions to SCR 189. However, after due consideration, the Commission chose only to add a safe harbor for occasional work in areas of federal law, international law

or the law of a foreign nation. The Commission also included language to state affirmatively that no “safe harbor” would be available in the face of a “regular and repetitive course of business” in Nevada.

B. OUT-OF-STATE LAWYERS IN LITIGATION

Having considered favorable comments from at least one Nevada governmental entity (the Public Utilities Commission), the Commission reaffirmed its position that *pro hac vice* should be expanded to include matters before an administrative agency or governmental body or those alternative dispute resolution procedures that are court-annexed or court ordered. Revised SCR 42 would not apply to ADR procedures engaged in voluntarily or pursuant to a private agreement.

C. OUT-OF-STATE PRIVATE LAWYERS IN TRANSACTIONAL MATTERS

The revised approach to this problem constitutes the single biggest change from the Report filed in November. In its original report the Commission recommended the adoption of a new rule that would in effect create a *pro hac vice* system for extra-judicial matters. In other words, an out-of-state transactional lawyer would be required to associate with local counsel in order to perform legal work in Nevada for a Nevada client.

The Commission considered several negative public comments on this approach and in reconsideration chose to redraft the proposed rule (now SCR 189.1) to establish a system of registration and reporting for out-of-state private attorneys engaged in extra-judicial matters. Essentially, any such lawyer providing legal services to a Nevada client (defined as a natural person residing in Nevada, a Nevada governmental entity, or a business doing business in Nevada) would be required to register with the State Bar and to provide an annual report to the State Bar on or before January 31 of the following year. The annual report would set forth the type of client represented (e.g., corporation) and the nature of the work performed (e.g., securities offering). These annual reports would be kept confidential save in the case of disciplinary proceedings or criminal proceedings for the unauthorized practice of law.

This approach was taken as the Commission felt that it was impossible to create a “bright line” policy based on either the number of clients represented or the number of matters on which the subject attorney worked or a combination of both. Rather, it was the Commission’s unanimous feeling that Bar Counsel should be given the discretion to review the annual reports and determine whether a violation of SCR 189 (unauthorized practice of law) had occurred (i.e., whether the applicable “safe harbor” had been breached).

D. CORPORATE OR GOVERNMENTAL COUNSEL

The Commission reaffirmed in general its proposition that in-house or governmental counsel be granted limited admission in Nevada during the tenure of their employment but not be permitted to appear in Nevada courts.

Responding to suggestions that requiring residency and full-time employment was unreasonable, the proposed rule (SCR 49.10) was redrafted to provide for admission of non-residents, provided they are employed by a single corporation doing business in Nevada or a single Nevada governmental entity.

The Commission also inserted language in the rule to guarantee that anyone so admitted could only perform legal services related to the business of the employer.

E. LEGAL SERVICES ATTORNEYS

The recommendations of the Commission with respect to the limited admission of full-time employees of a non-profit legal services provider were implemented by the Court through the repeal of former SCR 49.3 and the adoption of new SCR 49.3 on February 6, 2002.

F. ASSISTANT DISTRICT ATTORNEYS IN RURAL COUNTIES

The Commission took no further action on this subject.

G. MULTI-STATE LAW FIRMS

The Commission reaffirmed its position that current SCR 199 (firm names) should be repealed and replaced with a version of ABA Model Rule 7.5. The new SCR 199 would also tie the use of a firm name to the registration process proposed in new SCR 199.1.

SCR 199.1 provides a registration scheme for all law firms having offices in more than one jurisdiction (including potentially firms based in Nevada). In addition to the requirement that the firm maintain a permanent office in the state (i.e., more than a sham or “storefront” operation), the Commission strengthened the language regarding the responsibility of the Nevada-licensed members of the firm to manage and actively participate in matters being handled for Nevada clients.

The registration process will ensure, among other things, that in the event of a disciplinary complaint leveled against a non-resident member of the firm, Bar Counsel will be able to locate and prosecute such attorney as appropriate. This is deemed necessary for the adequate protection of Nevada clients.

H. NEVADA ATTORNEYS NOT MAINTAINING A NEVADA OFFICE (NEW)

Several members of the Commission expressed continuing concern regarding the practice of many non-resident members of the Nevada bar who participate in litigation matters in Nevada but who do not maintain an office in the state. The Commission received a few public comments on this problem as well.

The majority of the Commission felt that this problem could be substantially eradicated if the non-resident attorney were required to either associate with a Nevada-resident attorney or to designate a resident attorney for the purpose of receiving all pleadings or notices, which would be deemed to be served on the non-resident attorney at the time of their delivery.

A minority of the Commission felt that this approach did not go far enough to cure the problem of non-resident counsel being unavailable by a local phone call and suggested that such non-residents be required to provide a local "roll-over" telephone number to opposing counsel. However, the proposed SCR 42.1 incorporates by reference the local rules of practice in this state, most all of which require that counsel provide a telephone number

I. CLIENT PROTECTION ISSUES

To adequately address the client protection issues naturally arising from the expanded practice of non-Nevada attorneys, the Commission reaffirmed the following:

- (1) A portion of the registration fees generated from the registration of transactional attorneys, in-house or governmental counsel, and law firms shall be designated for the Client Security Fund currently administered by the State Bar.
- (2) All advertisements placed in Nevada media (except simple telephone listings) or broadcast to this state shall provide a statement (when applicable) that the advertising attorney or law firm is not licensed by or registered with the State Bar of Nevada.

J. ADMISSIONS PROCEDURES

The Commission took no action to contradict its original position that (absent the availability of admission for limited purposes) admission to practice in Nevada should be predicated on (1) the taking and passing of the Nevada bar examination by graduates of an ABA-accredited law school (or the functional equivalent thereof) and (2) compliance with the Court's moral character and fitness requirements.

IV. Implementing Rules

The Commission in Attachment A hereto provides the Court with proposed revised and new Supreme Court Rules that are deemed necessary to implement the findings and conclusions of the Commission as reconsidered and/or reconfirmed following the period of public commentary.

Respectfully submitted,

SUPREME COURT COMMISSION ON
MULTIJURISDICTIONAL PRACTICE

Thomas R. C. Wilson II, Chair
The Hon. Nancy A. Becker
The Hon. Jack B. Ames
The Hon. James W. Hardesty
The Hon. Ronald D. Parraguirre
Matthew C. Addison
Nancy L. Allf
John A. Curtas
Neil G. Galatz
M. Ann Morgan
Dean Richard J. Morgan
John H. Mowbray
Bridget Robb Peck
Margo Piscevich
John P. Schlegelmilch
Gloria J. Sturman
William C. Turner
Allen W. Kimbrough, Reporter

ATTACHMENT A

PROPOSED REVISED AND NEW SUPREME COURT RULES

Rule 2. Definitions of words and terms. In these rules, unless the context or subject matter otherwise requires:

* * * *

11. "Another jurisdiction of the United States" includes any United States court or the highest court in any state, territory, or insular possession of the United States.

[11.]12. The past, present and future tense shall each include the others; the masculine, feminine and neuter gender shall include the others; and the singular and plural number shall each include the other.

Rule 42. Practice of attorneys not admitted in Nevada.

1. Application of Rule.

(a) This rule applies to:

(i) all actions or proceedings pending before a court in this state;

(ii) all actions or proceedings pending before an administrative agency or governmental body in this state, unless that agency or governmental body provides otherwise;

(iii) all arbitration, mediation, or alternative dispute resolution procedures in this state that are court-annexed or court ordered, or that are mandated by statute or administrative rule; and

(iv) all services incident to any of these proceedings including but not limited to discovery and settlement negotiations.

(b) This rule does not apply to arbitration, mediation, or alternative dispute resolution procedures in which the parties engage voluntarily or by private agreement.

2. Who may apply. A lawyer who has been retained to represent a client in this state in an action or proceeding set forth in subsection (1)(a) of this rule may file a written application to appear as counsel in that action or proceeding if the following conditions are met:

(a) the lawyer is not a member of the State Bar of Nevada;

(b) the lawyer is not a resident of the State of Nevada;

(c) the lawyer is not regularly employed in the State of Nevada;

(d) the lawyer is not engaged in substantial business, professional, or other activities in the State of Nevada;

(e) the lawyer is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and

(f) the lawyer associates an active member in good standing of the State Bar of Nevada as counsel of record in the action or proceeding.

3. **Procedure for applying.** A lawyer who meets the requirements of subsection (2) of this rule may appear in an action or proceeding subject to this rule only upon the approval of the court, arbitrator, mediator or administrative or governmental hearing officer where the action or proceeding is pending. The following procedure must be used:

(a) **Verified application.** The lawyer must file with the State Bar of Nevada at its Las Vegas, Nevada, office:

(i) an original and one (1) copy of a verified application as provided in subsection (4) of this rule;

(ii) a certificate from the state bar or from the clerk of the supreme court or highest admitting court of each state, territory or insular possession of the United States in which the applicant has been admitted to practice law certifying the applicant's membership therein; and

(iii) a non-refundable application fee of \$350.00, or an application for waiver of fees as provided in subsection (3)(e) of this rule.

(b) **State Bar statement.** Upon receipt of the verified application, certificate(s) of good standing, and fee or application for waiver of fees as described in subsection (3)(a) of this rule, the State Bar of Nevada shall:

(i) serve upon the Nevada counsel associated with the applicant, a statement which states:

(a) whether the applicant or other attorney members of the firm with which the applicant is associated has previously made any application or motion under this rule within the preceding three (3) years;

(b) the date of any such application or motion; and

(c) whether the application was granted or denied.

(ii) include as exhibits attached to the statement:

- (a) the original verified application;
- (b) the original certificate(s) of good standing;
- (c) a form motion to associate counsel; and
- (d) a form order granting or denying such motion.

(iii) retain copies of verified applications and certificate(s) of good standing for three (3) years.

(c) **Motion to associate.**

(i) The Nevada lawyer associated with the applicant shall file the motion to associate with the court, arbitrator, mediator, or administrative or governmental hearing officer where the proceeding is pending. The motion shall include proof of service by mail of a copy of the motion on all parties in accordance with the Nevada Rules of Civil Procedure.

(ii) The motion to associate shall include the following exhibits:

- (a) the original verified application;
- (b) the original certificate(s) of good standing; and
- (c) the State Bar statement.

(iii) The motion to associate shall be accompanied by a proposed order granting or denying the motion to associate.

(iv) Nevada counsel of record associated with the applicant shall mail a copy of any order granting or denying a motion to associate to the State Bar of Nevada at its Las Vegas, Nevada office.

(d) **Appearance and consent of Nevada counsel.** Before a motion to associate counsel is granted, the active member of the State Bar of Nevada who will be associated with the applicant must appear as attorney of record in the particular cause and consent in writing to the association.

(e) **Limited exception to original and annual fee.** Upon a showing that the applicant is providing pro bono services in a death penalty habeas corpus case or in other similar circumstances providing for pro bono representation, the court, arbitrator, mediator, or administrative or governmental agency may waive the original fee required by subsection (3)(a) of this rule and the annual renewal fee required by subsection (9) of this rule. An applicant may obtain an application for waiver of these fees from the State Bar of Nevada and shall file the completed waiver application with the original verified application seeking admission under this rule.

4. **Verified application.** The verified application required by this rule shall be on a form approved by the State Bar of Nevada. The approved application forms shall be available at the county clerk's office of the court, arbitrator, mediator, or administrative or governmental agency where the action is pending. The application shall state:

- (a) the applicant's residence and office address;
- (b) the court or courts to which the applicant has been admitted to practice and the date of such admission;
- (c) that the applicant is a member in good standing of such court or courts;
- (d) that the applicant is not currently suspended or disbarred in any court;
- (e) whether the applicant is currently subject to any disciplinary proceedings by any organization with authority to discipline attorneys at law;
- (f) whether the applicant has ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law;

(g) the title of the court and cause, including arbitrations, mediations, or matters before an administrative agency or governmental body, in which the applicant or any member of the firm of attorneys with which the applicant is associated has filed an application to appear as counsel under this rule in the preceding three years, the date of each application, and whether it was granted;

(h) the name, address, and telephone number of the active member of the State Bar of Nevada who is the attorney of record;

(i) the name of each party and the name and address of counsel of record who appeared for that party;

(j) that the applicant certifies that he or she shall be subject to the jurisdiction of the courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada;

(k) that the applicant understands and shall comply with the standards of professional conduct required of members of the State Bar of Nevada; and

(l) that the applicant has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

5. **Appearances by out-of-state counsel.** An applicant shall not appear in a proceeding subject to this rule until the court, arbitrator, mediator, or administrative or governmental agency where the action is pending enters an order granting the motion to associate.

6. **Discretion.** The granting or denial of a motion to associate counsel under this rule is discretionary. The court, arbitrator, mediator, or administrative or governmental hearing officer may revoke the authority of the person permitted to appear as counsel under this rule to make continued appearances under this rule. Absent special circumstances, repeated

appearances by any person or firm of attorneys under this rule shall be cause for denial of the motion to associate such person.

(a) **Limitations.** It shall be presumed, absent special circumstances, and only upon a showing of good cause, that more than five appearances by any person or firm of attorneys granted under this rule in a three-year period is excessive use of this rule.

(b) **Burden on applicant.** The applicant shall have the burden to establish special circumstances and good cause for an appearance in excess of the limitations set forth in subsection (6)(a) of this rule. The applicant shall set forth the special circumstances and good cause in an affidavit attached to the original verified application.

7. **Transfer.** Once a motion to associate under this rule has been granted, the attorney shall be deemed admitted in the event venue in the action is transferred to another district court or in the event such action is appealed to the supreme court; provided, however, that the court having jurisdiction over such transferred or appealed cause may revoke the attorney's authority to appear.

8. **Supreme court.** Appearance before the Supreme Court of Nevada in the first instance shall be by motion as provided in subsection (3) of this rule. If the motion is opposed, there may be a hearing, otherwise, the supreme court shall consider the matter without a hearing.

9. **Renewal of application.** On or before the anniversary date of the filing of the verified application with the State Bar of Nevada:

(a) The Nevada counsel of record must certify to the State Bar of Nevada that:

(i) the out-of-state counsel continues to act as counsel in the cause; or

(ii) the cause has been finally adjudicated.

(b) In the event that out-of-state counsel continues to act as counsel in the cause, out-of-state counsel shall remit to the State Bar of Nevada an annual \$350.00 fee within thirty (30) days of the anniversary date.

10. **Failure to renew.**

(a) Any out-of-state counsel who continues to act as counsel in a proceeding subject to this rule and fails to pay the renewal fees set forth in subsection (9) of this rule shall be suspended from appearing in any proceeding subject to this rule upon expiration of a period of thirty (30) days after the anniversary date.

(b) The Executive Director of the State Bar of Nevada shall notify the out-of-state counsel and the Nevada counsel of record of the suspension and shall file a certified copy of the notice with the court, arbitrator, mediator, or administrative agency or governmental body where the proceeding is filed, with the county clerk of each county, and with the clerk of the Supreme Court of Nevada.

11. **Reinstatement.**

(a) The out-of-state counsel may be reinstated upon the payment of the fees set forth in subsection (9) of this rule and a \$50.00 late penalty.

(b) Upon payment of all accrued fees and the late penalty, the Executive Director may reinstate the out-of-state counsel, and shall thereupon certify such reinstatement to the court, arbitrator, mediator, or administrative agency or governmental body where the proceeding is filed, with the county clerk of each county, and with the clerk of the Supreme Court of Nevada.

12. **Reporting by the state bar.**

(a) The State Bar of Nevada shall prepare an annual report listing:

(i) all applications filed under this rule during the preceding twelve months;

(ii) the names of all applicants; and

(iii) whether the motions to associate were granted or denied.

(b) The annual report shall be kept on file at the State Bar of Nevada and be available for review by each county clerk, court clerk, district judge, clerk of the Supreme Court of Nevada, and by such other persons as directed by the Board of Governors.

13. Discipline of out-of-state counsel.

(a) Out-of-state counsel appearing under this rule shall be subject to the jurisdiction of the courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada. Counsel shall become familiar and comply with the standards of professional conduct required of members of the State Bar of Nevada and shall be subject to the disciplinary jurisdiction of the State Bar of Nevada.

(b) The rules of the Supreme Court of Nevada shall govern in any investigation or proceeding conducted by the State Bar of Nevada under this rule.

14. Responsibilities of Nevada attorney of record.

(a) The Nevada attorney of record shall be responsible for and actively participate in the representation of a client in any proceeding that is subject to this rule.

(b) The Nevada attorney of record shall be present at all motions, pre-trials, or any matters in open court unless otherwise ordered by the court.

(c) The Nevada attorney of record shall be responsible to the court, arbitrator, mediator, or administrative agency or governmental body for the

administration of any proceeding that is subject to this rule and for compliance with all state and local rules of practice. It is the responsibility of Nevada counsel to ensure that the proceeding is tried and managed in accordance with all applicable Nevada procedural and ethical rules.

15. **Rule provides exclusive procedure.** Except as provided in this rule, an attorney admitted to practice in another jurisdiction shall not be admitted to practice law in the State of Nevada by motion or on the basis of reciprocity. Attorney applicants must make application for admission and be examined in accordance with Rules 49 to 75, inclusive, in the same manner as all other applicants.

Rule 42.1. Practice of attorneys admitted in Nevada but not maintaining Nevada offices.

1. **Application of rule.** This rule applies to an attorney who is admitted to practice in Nevada but who does not maintain an office in Nevada. A post office box or mail drop location shall not constitute an office under this rule.

2. **Association or designation for service.** 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.

3. The requirements of this Rule are in addition to any Rules of Practice of the courts of this state.

Rule 49.10. Limited practice of attorneys employed in government or as in-house counsel.

1. **Who may apply.** Notwithstanding the provisions of Rule 49, an attorney who is admitted to practice law in any other jurisdiction, and who is employed exclusively for a single governmental entity or as in-house counsel for a single corporation (including its subsidiaries and affiliates), association, partnership or other business entity situated in or qualified to do business in Nevada, whose lawful business consists of activities other than the practice of law or the provision of legal services, may be admitted to limited practice in this jurisdiction subject to the conditions of this rule and to such further conditions as the court may hereafter direct.

2. **Procedure for applying.** An attorney applying for admission under this rule shall file the following documents and fees with the State Bar of Nevada at its Las Vegas, Nevada office:

(a) **Verified certificate.** To be admitted under this rule, an applicant shall file an original and one (1) copy of a verified certificate, on a form supplied or approved by the State Bar of Nevada, which shall include all of the following:

- (i) The attorney's residence and office address.
- (ii) The name, address, and telephone number of the attorney's employer.
- (iii) The courts before which the attorney has been admitted to practice and the dates of admission.
- (iv) That the attorney is currently a member in good standing of, and eligible to practice law before, the bar of those courts.
- (v) That the attorney is not currently on suspension or disbarred from the practice of law before the bar of any court.

(vi) That the attorney agrees to be subject to the jurisdiction of the courts of this state with respect to the law of this state governing the conduct of attorneys to the same extent as an active member of the State Bar of Nevada.

(b) **Certificate of good standing.** A certificate from the state bar or clerk of the supreme court or highest admitting court of each state, territory or insular possession of the United States in which the applicant has been admitted to practice law certifying the applicant's membership and good standing therein.

(c) **Employer affidavit.** An affidavit signed by the applicant's immediate governmental supervisor or an officer, director or general counsel of the attorney's employer attesting that:

(i) the applicant is a bona fide full-time employee;

(ii) the nature of the employment conforms to the requirements of this rule; and

(iii) the affiant will notify the State Bar of Nevada within thirty (30) days after the applicant ceases to be so employed.

(d) **Evidence of character and fitness.** Affidavits signed by two members of each bar where the applicant has been admitted or other evidence satisfactory to the State Bar of Nevada establishing the applicant's good moral character and fitness to practice law.

(e) **Application Fee.** A non-refundable application fee of \$150.00.

(f) **Annual fee.** An annual fee equivalent to the annual membership dues paid by active members of the State Bar of Nevada of comparable longevity.

(g) Such other information or documentation as the State Bar may request in the course of its investigation.

3. **Certificate containing false information.** An applicant who files a certificate containing false information or who otherwise fails to comply with the standards of professional conduct required of members of the State Bar of

Nevada shall be subject to the disciplinary jurisdiction of the Supreme Court of Nevada and the State Bar of Nevada with respect to any of his or her acts occurring in the course of the work performed.

4. **Review by State Bar.** The State Bar of Nevada shall investigate each application and, if necessary, interview the applicant. The State Bar of Nevada shall file its report and findings with the Supreme Court of Nevada, recommending approval or disapproval of the application. The State Bar of Nevada shall provide the applicant with a copy of its report and findings.

5. **Admission by the supreme court.**

(a) If the State Bar of Nevada recommends approval of the application, the Supreme Court of Nevada may grant the application and permit the attorney to practice in Nevada, subject to the restrictions of this rule.

(b) If the State Bar of Nevada recommends denial of the application, the applicant may, within twenty (20) days of service of that report, file objections to the State Bar's report with the Clerk of the Supreme Court of Nevada. The objections may include such additional material or information as the applicant deems appropriate. The applicant must serve a copy of his or her submission on the State Bar. The State Bar shall have twenty (20) days to file a response. Thereafter, the matter shall be deemed submitted and the Supreme Court of Nevada shall render a decision.

6. **Activities permitted under this rule.** An attorney admitted under this rule may render legal advice and services to, and communicate and negotiate with third persons on behalf of, the attorney's employer, other employees, or the employer's subsidiaries and affiliates in matters related to the business of the employer.

7. **Limitations of activities.**

(a) Unless otherwise permitted by law, an attorney admitted under this rule may not:

(i) Appear as counsel of record for the employer in Nevada in any court, before any administrative or political agency or in any arbitration, mediation, or alternative dispute resolution proceeding which is court-ordered or annexed or authorized by law or administrative rule.

(ii) Render legal advice or services to the public or to anyone other than the attorney's employer, other employees, or the employer's subsidiaries and affiliates.

(iii) Hold himself or herself out to the public as an attorney so authorized or engaged.

(b) All business cards and employer letterhead used by an attorney admitted under this rule in Nevada shall clearly indicate that the attorney is admitted to Nevada as governmental or in-house counsel.

8. **Continuing legal education.** During the time an attorney is admitted under this rule, the attorney shall comply with the same requirements for continuing legal education as may be prescribed for active members of the State Bar of Nevada.

9. **Discipline.** Attorneys admitted under this rule shall be subject to the jurisdiction of the courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as an active member of the State Bar of Nevada. He or she shall familiarize himself or herself and comply with the standards of professional conduct required by members of the State Bar of Nevada. The rules of the Supreme Court of Nevada shall govern in any investigation or proceeding conducted by the State Bar of Nevada under this rule.

10. **Renewal of admission.** On or before the anniversary date of the filing of the verified certification with the State Bar of Nevada, an attorney admitted under this rule must certify to the State Bar of Nevada that:

(i) the attorney is still employed by the same employer that submitted the affidavit required under subsection 2(c) of this rule;

(ii) the attorney has complied with the continuing education requirements prescribed for active members of the State Bar of Nevada; and

(iii) the attorney is still in good standing before the courts before which the attorney has been admitted to practice.

(b) An attorney admitted under this rule who continues to perform legal services shall remit to the State Bar of Nevada within thirty (30) days of the anniversary date, a fee equivalent to the annual membership dues paid by active members of the State Bar of Nevada of comparable longevity.

11. **Failure to renew.**

(a) An attorney admitted under this rule who continues to perform legal services for an employer and fails to provide the proper certification or pay the renewal fees set forth in subsection 10 of this rule shall be suspended from practicing law upon expiration of a period of 30 days after the anniversary date.

(b) The Executive Director of the State Bar of Nevada shall notify the Clerk of the Supreme Court, the attorney admitted under this rule, and the entity employing that attorney of the suspension.

12. **Reinstatement after failure to renew admission.** The out-of-state attorney may be reinstated upon compliance with the requirements of subsection 10 of this rule and the payment of a \$50.00 late penalty. Upon payment of all accrued fees and the late penalty, the Executive Director may reinstate the attorney and shall notify the Clerk of the Supreme Court, the attorney, and the entity employing the attorney of the reinstatement.

13. **Termination.** Admission to practice under this rule shall terminate whenever the attorney ceases to be employed by the employer submitting the affidavit under subsection (2)(c) of this rule. The employer shall promptly notify the State Bar of Nevada in writing whenever the attorney's employment ceases. Attorneys admitted to practice under this rule who cease to be employed as required by this rule shall not retain membership with the State Bar of Nevada and shall not be considered for active membership unless they have made application for admission and have been examined in accordance with Rules 49 to 75, inclusive, in the same manner as all other applicants.

Rule 189. Unauthorized practice of law.

1. **General rule.** A lawyer shall not:

(a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or

(b) assist another person in the unauthorized practice of law.

2. **Exceptions.** A lawyer who is not admitted in this jurisdiction, but who is admitted and in good standing in another jurisdiction of the United States, does not engage in the unauthorized practice of law in this jurisdiction when:

(a) The lawyer is authorized to appear before a tribunal in this jurisdiction by law or order of the tribunal or is preparing for a proceeding in which the lawyer reasonably expects to be so authorized.

(b) The lawyer participates in this jurisdiction in investigation and discovery incident to litigation that is pending or anticipated to be instituted in a jurisdiction in which the lawyer is admitted to practice.

(c) The lawyer is an employee of a client and is acting on behalf of the client or, in connection with the client's matters, on behalf of the client's other employees, or its commonly owned organizational affiliates in matters related to the business of the employer, provided that the lawyer is acting in this jurisdiction on an occasional basis and not as a regular or repetitive course of business in this jurisdiction.

(d) The lawyer is acting with respect to a matter that is incident to work being performed in a jurisdiction in which the lawyer is admitted, provided that the lawyer is acting in this jurisdiction on an occasional basis and not as a regular or repetitive course of business in this jurisdiction.

(e) The lawyer is engaged in the occasional representation of a client in association with a lawyer who is admitted in this jurisdiction and who has actual

responsibility for the representation and actively participates in the representation, provided that the out-of-state lawyer's representation of the client is not part of a regular or repetitive course of practice in this jurisdiction.

(f) The lawyer is representing a client, on an occasional basis and not as part of a regular or repetitive course of practice in this jurisdiction, in areas governed primarily by federal law, international law, or the law of a foreign nation.

(g) The lawyer is acting as an arbitrator, mediator, or impartial third party in an alternative dispute resolution proceeding.

3. **Interaction with S.C.R. 42.** Notwithstanding the provisions of subsection 2 of this rule, a lawyer who is not admitted to practice in this jurisdiction shall not represent a client in this state in an action or proceeding governed by S.C.R. 42 unless the lawyer has been authorized to appear under S.C.R. 42 or reasonably expects to be so authorized.

4. **Limitations.**

(a) No lawyer is authorized to provide legal services under this rule if the lawyer

(i) is an inactive or suspended member of the State Bar of Nevada, or has been disbarred or has received a disciplinary resignation from the State Bar of Nevada; or

(ii) has previously been disciplined or held in contempt by reason of misconduct committed while engaged in the practice of law permitted under this rule.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not

(i) establish an office or other regular presence in this jurisdiction for the practice of law;

(ii) solicit clients in this jurisdiction; or

(iii) represent or hold out to the public that the lawyer is admitted to practice law in this jurisdiction.

5. **Conduct and discipline.** A lawyer admitted to practice in another jurisdiction of the United States who acts in this jurisdiction pursuant to subsection (2) of this rule shall be subject to the Nevada Rules of Professional Conduct and the disciplinary jurisdiction of the Supreme Court of Nevada and the State Bar of Nevada as provided in S.C.R. 99.

Rule 189.1. Registration of private attorneys not admitted to Nevada in extra-judicial matters.

1. Application of rule.

(a) This rule applies to a lawyer who is not admitted in this jurisdiction, but who is admitted and in good standing in another jurisdiction of the United States, and who provides legal services for a Nevada client in connection with transactional or extra-judicial matters that are pending in or substantially related to Nevada.

(b) This rule does not apply to work performed by a lawyer in connection with any action pending before a court of this state, any action pending before an administrative agency or governmental body, or any arbitration, mediation, alternative dispute resolution proceeding, whether authorized by the court, law, rule, or private agreement.

2. Definitions. For purposes of this rule, a "Nevada client" is a natural person residing in the State of Nevada, a Nevada governmental entity, or a business entity doing business in Nevada.

3. Annual report. Notwithstanding any other provision of law, a lawyer who is subject to this rule shall file an annual report, along with a \$150.00 reporting fee, with the State Bar of Nevada at its Las Vegas, Nevada office. The annual report shall encompass January 1 through December 31 of a single calendar year and shall be filed on or before January 31 of the following calendar year. The report shall be on a form approved by the State Bar of Nevada and include the following information:

(a) The attorney's residence and office address.

(b) The courts before which the attorney has been admitted to practice and the dates of admission.

(c) That the attorney is currently a member in good standing of, and eligible to practice law before, the bar of those courts.

(d) That the attorney is not currently on suspension or disbarred from the practice of law before the bar of any court.

(e) The nature of the client(s) (individual or business entity) for whom the lawyer has provided services that are subject to this rule and the number and general nature of the transactions performed for each client during the previous twelve-month period. The lawyer shall not disclose the identity of any clients or any information that is confidential or subject to attorney-client privilege.

4. **Failure to file report.** Failure to timely file the report described in subsection (3) of this rule shall constitute the unauthorized practice of law and be grounds for discipline under applicable supreme court rules and prosecution under applicable state laws. The failure to file a timely report shall result in the imposition of a fine of not more than \$500.00.

5. **Discipline.** A lawyer who must file an annual report under this rule shall be subject to the jurisdiction of the courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada. He or she shall familiarize himself or herself and comply with the standards of professional conduct required of members of the State Bar of Nevada and shall be subject to the disciplinary jurisdiction of the State Bar of Nevada. The rules of this court shall govern in any investigation or proceeding conducted by the State Bar of Nevada under this rule.

6. **Confidentiality.** The State Bar of Nevada shall not disclose annual reports filed under this rule to any third parties unless necessary for disciplinary investigation or criminal prosecution for the unauthorized practice of law.

Rule 199. Firm names and letterhead.

1. A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 195. The firm name shall contain the names of one or more living, retired, or deceased members of the law firm. No trade names shall be used other than those utilized by non-profit legal services organizations; however, phrases such as "the law offices of" or "and associates" shall be permissible.

2. A law firm with offices in more than one jurisdiction, which is required to register with the State Bar of Nevada under S.C.R. 199.1, may use the same name in each jurisdiction. Identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations of those not licensed to practice in the jurisdiction where the office is located.

3. The name of a lawyer holding public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm. This provision does not apply to a lawyer who takes a brief hiatus from practice to serve as an elected member of the Nevada State Legislature when the Legislature is in session.

4. Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

Rule 199.1. Registration of multijurisdictional law firms.

1. **Applicability of rule.** All law firms having an office in Nevada and in one of more other jurisdictions shall register with the State Bar of Nevada before establishing an office in this state and shall pay an annual fee of \$500.00 for such registration.

2. **Definitions.** For purposes of this rule:

(a) "Law firm" means a solo practitioner or a group of lawyers.

(b) "Nevada client" means a natural person residing in the State of Nevada, a Nevada governmental entity, or a business entity doing business in Nevada.

3. **Procedure and requirements for registering.** An application for registration to practice under this rule, along with the appropriate fee, shall be filed with the State Bar of Nevada, on a form supplied or approved by the State Bar of Nevada, at its Las Vegas, Nevada office. The application shall include the following:

(a) The names and addresses of all attorneys employed by the firm, the jurisdictions in which each attorney is licensed, and verification that each attorney is in good standing in the jurisdictions in which each attorney is licensed.

(b) Any pending disciplinary action or investigation against an attorney employed by the firm.

(c) The address and telephone number of a permanent office located within the State of Nevada that will be maintained by the firm.

(d) The name, address, and telephone number of a member of the firm who shall be resident in the firm's Nevada office and who shall be the designated agent for service of process in this state. The resident member of the firm in the

Nevada office must be an active member in good standing of the State Bar of Nevada.

(e) A certification that:

(i) The firm will maintain a permanent office in Nevada with a resident member of the firm who is also an active member in good standing of the State Bar of Nevada at all times the firm is practicing in Nevada and to notify the State Bar of any change of status or address within thirty (30) days of the change in status or address;

(ii) The firm agrees to disclose in writing to its Nevada clients whether all of its attorneys are licensed to practice in Nevada and, if any of its attorneys are not so-licensed, to disclose what legal work will be performed by attorneys not admitted to practice in this state. Upon request of the State Bar of Nevada, the firm shall provide documentation evidencing its compliance with these disclosure requirements.

(iii) The firm agrees to maintain trust accounts in accordance with S.C.R. 78.5, with all funds arising from any matter in Nevada maintained solely in those accounts. The firm shall identify the financial institution where the trust account has been established.

(iv) The firm agrees to comply fully with S.C.R. 199.

4. **Application or certificate containing false information.** An attorney who causes to be filed an application or certificate containing false information shall be subject to the disciplinary jurisdiction of the State Bar of Nevada with respect to such action and the firm shall be disqualified from registering to practice in Nevada.

5. **Violation of conditions.** If the State Bar of Nevada determines that the firm is in violation of the conditions set forth in subsection (2)(e) of this

rule, the Executive Director of the State Bar may, upon twenty (20) days' notice, revoke the registration and the right of the firm to practice in Nevada.

6. **Renewal of registration.** On or before the anniversary date of the filing of the application with the State Bar of Nevada, a firm registered under this rule must renew its registration, providing current information and certification as required under subsection 2 of this rule. The renewal shall be accompanied by payment of a \$500.00 annual fee.

7. **Failure to renew.** A law firm registered under this rule that continues to practice law in Nevada but fails to provide the proper information and certification or pay the renewal fees set forth in subsection 5 of this rule shall be suspended from practicing law upon expiration of a period of thirty (30) days after the anniversary date. The Executive Director of the State Bar of Nevada shall notify the out-of-state firm and the Clerk of the Supreme Court of Nevada of the suspension.

8. **Reinstatement.** The out-of-state firm may be reinstated upon the compliance with the requirements of subsection 5 of this rule and the payment of a \$100.00 late penalty. Upon payment of all accrued fees and the late penalty, the Executive Director of the State Bar of Nevada may reinstate the out-of-state firm and shall notify the firm and the clerk of the Supreme Court of Nevada of the reinstatement.

9. **Responsibilities of Nevada-licensed members.** The members of the firm who are admitted to practice in Nevada shall be responsible for and actively participate as a principal or lead attorney in all work performed for Nevada residents, including business entities doing business in Nevada, and for compliance with all state and local rules of practice. It is the responsibility of the Nevada-licensed members of the firm to ensure that any proceedings in this jurisdiction are tried and managed in accordance with all applicable procedural

and ethical rules and that out-of-state members of the firm comply with S.C.R. 42 before appearing in any proceedings that are subject to that rule.

10. **Confidentiality.** The State Bar of Nevada shall not disclose the application for registration to any third parties unless necessary for disciplinary investigation or criminal prosecution for the unauthorized practice of law.