



DATE: January 17, 2002
TO: ABA Commission on Multijurisdictional Practice
FROM: Judge Samuel L. Bufford
RE: **Interim Report**

I am submitting this memo on behalf of the Los Angeles County Bar Association, to comment on the Interim Report of the Commission on Multijurisdictional Practice.

Reciprocity

Our overriding concern respecting MJP is the question of reciprocity with other states. California is the principal state that admits attorneys with law degrees from non-ABA law schools. Representatives from several states have testified before this Commission that they would be reluctant (at best) to authorize reciprocity for California attorneys with law degrees from these schools. Until we can resolve that question, we cannot give full support to reciprocity proposals. We note that the Commission interim report has no suggestion that reciprocity should not include these attorneys. However, we need more assurances that the other states will not create exceptions for this important group of California attorneys.

Litigators

We agree with Recommendation 2 insofar as it would permit litigators to perform legal services on a temporary basis in California. However, as to non-litigation legal services, we are not yet prepared to approve the recommendations because of our concerns on the reciprocity issue: if these concerns can be satisfied, we would support the application of Recommendation 2 to them, also.

Safe Harbors

We generally like the idea of safe harbors, as proposed in Recommendation 3. However, we have several concerns that we do not think are adequately addressed.

First, we think that Recommendation 3.2 is too broad.*¹ There are a variety of activities, such as the negotiation of contracts, that non-lawyers may legally perform, but which constitute the practice of law when done by attorneys. We do not think that these should be included within the scope of Proposal 3.2.

With respect to Proposals 3.5 and 3.6, we take the same view as we do on Proposal 2 as to non-litigators.

In-House Counsel

We generally think that Proposal 3.7 for in-house counsel is a good idea. However, we agree with the proposal of the California Supreme Court Task Force, that such attorneys should shoulder the same obligations as other California attorneys, such as paying dues, providing pro bono service, contributing to the client security fund, and contributing to the improvement of the practice of law and the administration of justice.

We have two additional concerns about Proposal 3.7. First, the proposal would appear to permit a small, unsophisticated California firm to hire a marginal non-California attorney, who would then be excused from taking the California bar examination. Such an employer may be unsophisticated, and may not know that the legal advice given by such a lawyer may fail to measure up to California standards.

Second, the Proposal may create second-class citizens of in-house counsel, who are not fully authorized to practice law in the state where they are employed. The proposal would prohibit such attorneys from appearing in court (unless they qualify for admission *pro hac vice*). Furthermore, such an attorney could only qualify for another in-house counsel position without moving to a jurisdiction where the attorney is admitted for all purposes.

Recommendation 6.1

We do not support Recommendation 6.1.* The federal courts in California have recently had a number of adverse experiences with non-California lawyers who have

¹The comments indicated by asterisk reflect the views of the Ethics 2000 Liaison Committee of the Los Angeles County Bar Association, and have not been reviewed by the Board of Trustees. The comments not so identified reflect positions adopted by the Board of Trustees in connection with making comments in response to interim proposals of the California Supreme Court Task Force on Multijurisdictional Practice.

attempted to practice law in our federal courts without admission to the California State Bar. Several such lawyers (who we doubt would be able to pass the California bar examination) have engaged in activities that have caused great harm to their California clients.