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**In Transit:
Temporary Practice While Pending Reciprocal Admission**

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Increased reciprocal admission is one of the most significant changes in law practice over the past generation. In the not too distant past, practicing routinely in more than one jurisdiction meant taking time off to study for and take another bar exam. Reciprocal admission, by contrast, is a relatively painless path to practicing in other states. At the same time, reciprocal admission is not immediate. In Oregon, for example, the Board of Bar Examiners advises in its on-line answers to “frequently asked questions” that the process from application to admission can take three to four months—assuming there are no issues raised by a particular application. Moreover, this estimate does not include the time an applicant spends gathering information necessary for a reciprocal application, such as certificates of good standing from other admitted jurisdictions and law school graduation certification.

Because reciprocal admission is not immediate, there can be an awkward gap for an experienced lawyer relocating to Oregon. In a common scenario, a lawyer may have joined a new law firm or legal department here but has not yet been admitted in Oregon. Although RPC 5.5(c) includes a number of “safe harbors” authorizing the temporary practice of law in Oregon by lawyers licensed out-of-state, RPC 5.5(b)(1) also prohibits a lawyer not licensed here from

“establish[ing] an office or other systematic and continuous presence in this jurisdiction for the practice of law[.]” For lawyers relocating here who had not yet been admitted, this dichotomy raised an important practical question: can I practice here pending reciprocal admission? In a case of first impression last year, the Oregon Supreme Court answered “yes”—as long as the lawyer falls within one of RPC 5.5(c)’s “safe harbors.” In this column, we’ll first review the Supreme Court’s decision in the case involved—*In re Harris*, 366 Or 475, 466 P3d 22 (2020)—and then turn to its practical lessons for lawyers, law firms and legal departments.

The Harris Decision

Harris involved very simple facts. The lawyer was a member of the New York and Pennsylvania bars and was hired here as general counsel of a local school district. The lawyer relocated to Oregon, began working at the school district and submitted an application for reciprocal admission. While his application was pending, an unrelated bar complaint was filed against the lawyer. Although the Oregon State Bar dismissed that complaint, the Bar on its own charged the lawyer with engaging in the unauthorized practice of law—arguing that he had established a “systematic” presence in Oregon without being

licensed here in violation of RPC 5.5(b)(1) and that none of the temporary “safe harbors” in RPC 5.5(c) applied.

A Disciplinary Board trial panel concluded that the lawyer’s practice here was authorized while his reciprocal admission application was pending under RPC 5.5(c)(5), which permits temporary practice in Oregon for “the lawyer’s employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission.” The Bar appealed the Disciplinary Board’s dismissal to the Supreme Court. The Supreme Court agreed with the Disciplinary Board and dismissed the Bar’s complaint.

In doing so, the Supreme Court observed that RPC 5.5(c) does not define the word “temporary” and looked instead to its simple dictionary definition: “lasting for a limited time.” The Supreme Court also noted that the lawyer was only here because he had been hired for his new job, eventual admission here was a condition of his employment and he had promptly submitted his reciprocal admission application—which, ironically, was granted while the disciplinary case was pending. The Supreme Court, therefore, found that the lawyer’s practice here pending reciprocal admission was authorized by RPC 5.5(c)(5)—which, as quoted above, allows temporary in-house practice.

Lessons from Harris

Harris is a very useful decision for lawyers, law firms and legal departments. It removes the ambiguity for lawyers relocating to Oregon who practice here pending reciprocal admission—whether they are seasoned practitioners moving in-house like the lawyer in *Harris* or relatively junior associates joining law firms.

Despite its utility, *Harris* also suggests two practical risk management steps.

First, lawyers need to promptly apply for reciprocal admission when they are relocating here. The accent in *Harris* was on the word “temporary.” *Harris* was not an invitation to put off applying for reciprocal admission. Failing to take advantage of reciprocal admission while practicing here begins to sound like “unauthorized practice.” In *In re Abrell*, 30 DB Rptr 289 (Or 2016), for example, a Washington lawyer was disciplined for unauthorized practice here for appearing in a Multnomah County Circuit Court proceeding without being admitted *pro hac vice*. In short, because reciprocal admission is now readily available, lawyers need to use it.

Second, lawyers need to make sure they qualify for one of the temporary “safe harbors” listed in RPC 5.5(c) while their reciprocal admission applications

are pending (and they are working here as lawyers). For in-house counsel like the lawyer in *Harris*, RPC 5.5(c)(5) will be the most typical avenue. For law firm lawyers relocating here, RPC 5.5(c)(1), which allows temporary practice by out-of-state lawyers here when “undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter[,]” is an equally clear approach while their reciprocal admission applications are pending.

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