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HAND DELIVERED

Honorable Petra Jimenez Maes  
Chief Justice  
New Mexico Supreme Court  
237 Don Gaspar Avenue  
Santa Fe, NM 87501

Re: Lack of Lawyer Reciprocity for Experienced Attorneys Hurts New Mexico

Dear Chief Justice Maes:

As one who would very much like to see our state rise from at or near the bottom of so many national rating lists, it was of interest to see New Mexico “good government” think tanks recently highlight the lack of lawyer reciprocity as another of the several detractions to bringing jobs to New Mexico. (“*Errors of Enchantment, Why is New Mexico not realizing its Potential?*” Paul Gessing, January 17, 2013, Rio Grande Foundation”). Mr. Gessing omitted mentioning the other blade of this two edge sword, how such “protectionism” also prejudices and disadvantages our current members of the New Mexico Bar who may want, or need, to expand their practices to adjoining states, or else must relocate for family, personal or economic reasons. They find their New Mexico Bar Membership is immediately devalued at the state line. More enlightened jurisdictions will not accept them or their experiences, so long as this out-dated approach continues in force in our state.

I am informed that seventy five percent (75%) of current New Mexican Bar members, from a recent survey, support reciprocity. It would likely provide some of them with more career options. Why should experienced legal professionals who have already passed a state bar exam, and are licensed in one or more states, have to surmount the hurdles and tolls of taking months from their lives, schedules, families, and pocketbooks to endure the expense, utter waste, and the

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disruption of their careers to do a redundant bar exam which is of little value elsewhere? There are few New Mexico legal nuances one might want to know about that cannot be resolved with a CLE class or two. We now live in an increasingly mobile society where provincialism and parochialism have each outlived their times.

In the interest of morality, fairness, and particularly ethics, why not just treat other experienced attorneys as we would want to be treated, were we in their shoes. I seem to recall that there is a golden rule about that. (See also Golden Rule, an “ethic of reciprocity” in Wikipedia). The good news is that while our New Mexico Supreme Court cannot do much about our state being near the bottom on graduation rates, education reform, teen pregnancies, and the like, it does possess the exclusive jurisdiction, opportunity and responsibility to fix this anomaly for the common good. The buck stops at the New Mexico Supreme Court building, not at Bar Committees or Legislatures.

The Court already permits experienced out of state lawyers to represent poor people in New Mexico via selected non-profits. (Rule 15-301.2) Surely, we would not permit substandard representation there, so this is not about the competence of other state bar members, many of them coming from states that require higher MPRE (ethics) scores than New Mexico does. Similarly, our Court voted unanimously in November 2012, in its Case Number 33,702, to reverse the Board of Bar Examiners in the Huerta matter, thereby granting reciprocity to a Mexican Attorney under a Foreign Legal Consultant program. While I applaud this enlightened decision, it begs the question as to what do Mexico bar members have that plain old experienced American attorneys from other USA States do not?

The only remaining barrier here, it would now appear, is our Court sanctioned protectionism for a small vocal minority of lawyers, who can't compete, or else fear competition from competent, experienced, professionals who may have more experience from sister jurisdictions. The public policy goal here should be providing New Mexico consumers of legal services the very best choices available, rather than restraining legal trade, which conduct would be actionable in any other business endeavor. Physicians, Accountants, and other professionals who relocate to New Mexico do not encounter such hassle, or burdens on Interstate Commerce, but pity their poor trailing spouse who happens to be a lawyer and wants to reunite the family in New Mexico. It has an even worse impact for military spouse lawyers, spouses of FBI Agents, et al, whose spouse is forced to transfer to New Mexico with even less choice on the move. Several lawyer trailing spouses are female, so this would also seem both a women's issue and sexist restriction for those who care about these inequities. (See Vuono Op Ed attached). Protectionism disrupts individual lives, invites corruption, and denies consumers of legal services the best and brightest resources.

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As an active member of three State Bars, each of which enjoys reciprocity for experienced lawyers from jurisdictions that provide reciprocity to their lawyers, as well as, my being a member of the Santa Fe County Ethics Board, I am intrigued with the current New Mexico restrictions here. I trust that you and your colleagues will soon rectify this anachronism. I seriously doubt that the General Counsel of any large company, which may be considering relocating to NM and creating local jobs here, would counsel the client to relocate, once they discover the hassle, the costs and the delays the attorneys in his or her law department would face in order to directly serve and represent their employer. In the interim, jobs flee New Mexico. As counsel for Venture Due Diligence, a Virginia LLC, which has an interest in evaluating deals nationwide, my client is very mindful of avoiding jurisdictions that restrain trade and impose unreasonable hurdles.

Intuitively, it would seem that the fine folks down at the Bar Examiners would be delighted that their results and efforts finally have credibility beyond the State border. Currently they have little or none with Arizona, Texas, and Colorado, Utah and Oklahoma and all the rest of the thirty-nine or forty legal commerce friendly states in our USA. Likewise, setting the threshold at “unanimous” as in the past with the Bar Commissioners, even though most of them reportedly support reciprocity, is just a poison pill designed to kill the deal. Leadership here must come from you and your colleagues, if we are ever to move New Mexico to the mainstream in this vital area.

The American Bar Association has commented in its commission on ethics that the effect of requiring attorneys already licensed and experienced in legal practice to take another bar exam is an “erection of an excessive barrier” that is “lengthy, expensive and burdensome”; and while reciprocity was not necessarily needed when the rules were originally promulgated because people maintained law offices in a single jurisdiction over their entire careers, geographic mobility and the increasing demands of multi-state clients make this an obvious reform. Lawyers with busy practices will not take the time to overcome these “excessive barriers” and will continue to “pay to play” at the extra expense of their poor client, with our convoluted pro hac vici system, designed for legal featherbedding, imposed between them and their clients, and the Court. Many of these attorneys, if they had the option, would likely obtain Admission on Motion and directly represent their client, while paying New Mexico bar dues, and helping to better support bar programs. NM lawyers could do the same in other jurisdictions. Arizona did not have a rush of attorneys when it modernized its admission procedures, but it clearly did improve its bar dues structure and allowed its own attorneys to follow the client’s deal to other enlightened states.

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With all due respect, our New Mexico's Supreme Court should end its economically-harmful, regulatory provincialism, and adopt the American Bar Association's "Admission by Motion" procedure. I hope that fixing this broken system and finally moving New Mexico into the main stream here will be a part of your legacy. If I may provide any further information, or if I may expand on any of the points above, do not hesitate to contact me.

Sincerely,

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Attorney – Mediator - Trustee  
[www.georgelegal.com](http://www.georgelegal.com)

Enclosures:

Stephen Kovach's article 2008  
American Bar Association Model Rule on Admission by Motion  
Eleanor Vuono Statement  
American Bar Association Resolution on Admission by Endorsement

Copies to:

Justice Charles W. Daniels  
Justice Edward L. Chavez  
Justice Barbara J. Vigil  
Justice Richard C. Bosson

