Overview of Remarks

• Why this issue matters to the citizens in your state
• The CCJ’s recommendations on this issue
• Why and how the federal government and other countries are talking about your state
• What you can do about it…
Why This Issue Matters to Your State

Source: Trade Stats Express: http://tse.export.gov

Individuals Also Have Global Needs

FOR IMMEDIATE RELEASE: THURSDAY, SEPTEMBER 05, 2013

Census Bureau Reports 21 Percent of Married-Couple Households Have at Least One Foreign-Born Spouse
Law Offices per State That Also Have Foreign Offices

100 or more Law offices
10-99 Law offices
1-9 Law offices

Data for this map provided by General Counsel Metrics, LLC based on the websites of law firms with approximately 37 lawyers or more. This map shows the number of law offices in each state that also have at least one foreign office. This data implicates the issue that is often referred to as “association.”

US-Foreign Clients/Lawyers Work Together

• In a 2010 World Trade Organization Report:*
  – The U.S. was the #1 legal services exporter
  – The U.S. was the #1 legal services importer

• According to the American Lawyer Oct. 2014:
  “More than 25,000 lawyers from Am Law 200 firms work in foreign offices in more than 70 countries.”

* WTO Council on Trade in Services, Legal Services, Background Note by the Secretariat, 2/c/2/318 (14 June 2010)
Selected CCJ Resolutions

- **2013**: Resolution 10, To Call Upon the [USTR] to Negotiate, and the [U.S.] Congress to Approve, Provisions in Trade Agreements that Recognize & Support the Sovereignty of State Judicial Systems To Regulate the Admissions & Performance Standards for All Persons Seeking to Practice as Lawyers…

- **2014**: Resolution 11, In Support of the Framework Created by the State Bar of Georgia and the Georgia Supreme Court to Address [these foreign lawyer] Issues… (i.e., The State Toolkit)

- **2015**: Resolution 2, In Support of Regulations Permitting Limited Practice by Foreign Lawyers in the US

- **2016**: Resolution 9, Recommending Consideration of ABA Model Regulatory Objectives for the Provision of Legal Services
Jan. 2015 CCJ Resolution

CONERENCE OF CHIEF JUSTICES
Resolution 2

In Support of Regulations Permitting Limited Practice by Foreign Lawyers in the United States to Address Issues Arising from Legal Market Globalization and Cross-Border Legal Practice

“[The CCJ] strongly encourages its members to **adopt explicit policies** that permit the following qualified activities by foreign lawyers as a means to increase available legal services and to facilitate movement of goods and services between the United States and foreign nations:

[association + inbound foreign lawyer policies],

Policies Involve **LIMITED** Admission

- Foreign in-house counsel
- Foreign Temporary Transactional Work (FIFO)
  - Also includes international ADR
- Foreign *Pro Hac Vice*
- Foreign Legal Consultants

**Note:** The CCJ Resolution does not address full admission or the foreign lawyer/LL.M. *proposal* (not adopted) from the International C’ee of the ABA Sec. of Legal Ed. & Admissions to the Bar to Council
Jurisdictions with Rules Regarding Foreign Lawyer Practice
Prepared Feb. 15, 2016 by Laurel Terry (LTerry@psu.edu), Professor, Dickinson Law

LEGEND (see back page for additional information)

Yellow shading = has a foreign legal consultant rule
• = rule permits temporary practice by foreign lawyers (also known as FIFO or fly-in, fly-out)
★ = rule permits foreign pro hac vice admission
▲ = rule permits foreign in-house counsel
● = has had at least one foreign-educated applicant sit for a bar exam between 2010 and 2015.

For Help Tackling These Issues


International Trade in Legal Services and Professional Regulation:
A Framework for State Bars Based on the Georgia Experience

American Bar Association Task Force on International Trade in Legal Services
February 4, 2012 (Updated January 8, 2014)

“From Main Street to Wall Street, lawyers of every practice area, every size of firm, and every jurisdiction are affected by globalization. It may involve a dispute

• This will be updated soon
• Based on advice from a former regulator
• See CCJ Resolution #11 (Jan. 2014) here
The Bar Examiner

Volume 83 | Number 4 | December 2014

A publication of the National Conference of Bar Examiners

Admitting Foreign-Trained Lawyers in States Other Than New York: Why It Matters

by Laurel S. Terry

Testing Foreign-Trained Applicants in a New York State of Mind

by Diane F. Bosse

These Articles Might Also Help

One Reason for CCJ Resolution #2 (2015)

CCBE request to the United States in the context of the Transatlantic Trade and Investment partnership (TTIP) negotiations

November 10, 2014
Others Are Talking About You…

IBA Global Regulation and Trade in Legal Services Report 2014
http://tinyurl.com/2014IBARepo

What Should Regulators Do?

• Consider foreign lawyer admission issues
• Make your informal policies formal
• Help correct-update the IBA info & maps
• Create a committee. The “Toolkit” can help
• Acknowledge as regulatory objectives *client needs* as well as client protection
Client Needs as a Regulatory Objective

ADOTED AS REVISED AND AMENDED

RESOLUTION

RESOLVED, That the American Bar Association adopts the ABA Model Regulatory Objectives for the Provision of Legal Services, dated February, 2016.

ABA Model Regulatory Objectives for the Provision of Legal Services

Client & public protection are important regulatory objectives but there is increasing recognition that client needs should not be ignored

To Read More About It...

- ABA Commission on the Future of Legal Services (includes links to ABA Regulatory Objectives & reports) http://www.americanbar.org/groups/centers_commissions/commission-on-the-future-of-legal-services.html
These and other slides are posted here:

http://tinyurl.com/Laurel-Terry-slides