Admitting Foreign-Trained Lawyers

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Overview of Remarks

1. Trends in foreign-educated applicants
2. Why this trend exists
3. The relevance of your actions to trade agreements
4. Recent developments & resources
5. The “Takeaway” Message
Trends Outside of CA & NY (1992-2013)

Foreign-educated Applicants

Number of States with Foreign-Educated Applicants

Since 2002, outside of NY & CA, the number of applicants has approximately tripled.

29 states in 2010-2012
28 states in 2013

Finding Data About Your State

Summary of Statistics of Bar Exam Applicants Educated Outside the US: 1992-2013
(It’s Not Just About New York and California)

Excerpts from National Conference of Bar Examiners, Bar Admission Statistics 1992-2013,
Prepared by Laurel Terry (L.Terry@psu.edu) April 30, 2013, Updated April 4, 2014*

It’s in your conference materials and also here:
http://tinyurl.com/NCBEforeignstats
Reasons for this Trend

- **Mobility**: Lawyers relocate around the world
- **Clients**: Have global needs
- **Lawyers**: Serve clients with global needs
- The “Credential” Effect

Your Citizens Have Global Legal Needs

#1: Texas ($280 billion)
#4: Washington (82 billion)
#49: Wyoming ($1.3 billion)
#50: Hawaii ($598 million)

Source: US gov’t website
TradeStats Express
Global Legal Work isn’t likely to Decrease


Globalization Affects Individuals

\[ \text{NOTE} \ldots \text{the states for which the 2010 data shows the largest immigration increase} \]

\[ \text{Darker colors} = \text{higher percents} \]
Changes in U.S. Foreign-Born Population

- Note the dramatic change between 1960 and 2010
- Consider the implications for legal services

Your Job & Trade Agreements

**Did you know…..**

- Legal services are covered by trade agreements?
- Admissions issues are discussed in these agreements?
- The CCBE has formalized its position regarding the *requests* it wants the EU to present to the US in T-TIP
- The CCBE has said it is awaiting the US “requests”
- A high-level official USTR representative spoke at the recent CCJ Midyear Meeting
- The IBA recently completed a 800+ page “Report” that includes admissions issues & was sent to gov’ts
Some acronyms worth knowing:

- **T-TIP** = Transatlantic Trade and Investment Partnership (TTIP)
- **TISA** = Trade in Services Agreement (TISA) negotiations
- **TPP** = Trans-Pacific Partnership (TPP)
- **APEC** = Asia-Pacific Economic Cooperation
- **WTO** = World Trade Organization
- **USTR** = Office of the United States Trade Representative

Legend

- **Yellow Shading** = has a foreign legal consultant rule
- **=** rule permits foreign Pro Hac Vice
- **=** rule permits foreign in-house counsel
- **=** rule permits temporary practice by foreign lawyers, also known as FIFO or fly in/fly out
- **=** had a foreign-educated applicant sit for a bar exam in the past 3 years (2010-2012)

U.S. Rules Regarding the Five Methods of Foreign Lawyer Practice

Prepared by Prof. Laurel Terry (LTerry@psu.edu), Jan. 6, 2014 based on data from the ABA Center for Professional Responsibility and the NCBE
CCJ Resolution #11 re the Toolkit

- Jan. 2014: The CCJ encourages states to consider the Toolkit for foreign lawyer admission issues
- My impression is that the map was influential
- My view: States need to be willing to consider not only client protection but also client needs

See my “Bandwagon” article.
If you don’t consider these issues, others might! 13

Developments Worth Knowing

- Global “access to justice” conversations
  - Will Canada’s conversations spill over to the U.S.?
- US efforts to respond to the lack of accessible legal services
  - Washington’s LLLT
  - New York’s new “Navigator” program
  - California’s ongoing study about access issues
- “Creative disruption” & the increased investment in the “legal services” space

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“Takeaways” for Admissions Regulators

- Respond to governmental requests for information
- Make sure the information is accurate
- Remember that admissions issues are part of nat’l and global conversations about access to legal services
- Trade requests likely will focus on “limited licenses” or temporary practice rights not full admission
- Consider client needs as well as client protection
- Consider how clients in your state who annually export $1+billion can get access to foreign legal help
To Read More About It…

• See items on the Table of Contents of Materials Submitted by Professor Laurel S. Terry for the 2014 Seattle NCBE Meeting

• ABA ITILS Webpage, http://tinyurl.com/ABAITILS

• The State “Toolkit” (based on GA), http://tinyurl.com/statetoolkit

• The IBA GATs Handbook http://tinyurl.com/gats-iba

• The NY “Navigator” Pilot Project, http://www.courts.state.ny.us/courts/nyc/housing/rap_prospective.shtml


To Read More About It…

By Laurel Terry

Global Legal Practice Resources Webpage:
http://www.personal.psu.edu/faculty/l/s/lst3/globalprac.htm

Links to Publications by Topic:
http://www.personal.psu.edu/faculty/l/s/lst3/

Presentations Page:
http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm

SSRN page: http://ssrn.com/author=340745

Topics addressed include: The Impact of Global Trade Agreements on Legal Services; Trends in Global Lawyer Regulation; Regulatory Objectives for the Legal Profession; Creating the International Conference of Legal Regulators; the FATF & Gatekeeper Requirements; Antitrust scrutiny of the legal profession
To Read More About It...

My Presentations Webpage:

- **Global Developments in general** (See 1:11, 9:09 and 11:09) (See also 2000 Service Providers article “The Legal World is Flat”, and other “Global Legal Practice”

- **Alternative Business Structure** (ABS) developments (including the UK’s Legal Services Act 2007, Australia’s publicly traded law firms, EU, and OECD developments

- **Antitrust initiatives** directed towards the legal profession, including the EU’s Professional Services Competition initiative (See 5:09, 4:09)

- **the APEC Legal Services Initiative** (See 1:09)

- **Australian Legal Profession Developments** (See 8:09 - 1:09)

- **the Bologna Process** (See 3:09, 1:09; see also 1:11)

- **Classification Systems for Counting Legal Services** (See 10:09 - 4:09)

http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm