



# AttPro Ally



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with Multi-  
Jurisdictional  
Law!

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# Pro hac vice

## WHEN YOU'RE THE VISITING TEAM

By: Kate Gould, Esq.

Whether in Little League, college, or the pros, any baseball player will likely tell you they prefer to be the home team. Being away from the friendly confines (shout out Wrigley) comes with a certain level of discomfort. The unfamiliarity of the accommodations, locker room amenities, and stadium can affect a player's performance, even if they are a seasoned veteran. Professional baseball teams go to great lengths to ensure that their players can adapt to the unfamiliar environment and overcome the unique challenges of a road game. Without a doubt, home field advantage can be critical to a team's success.

If you apply for admission to practice pro hac vice in another state, you should similarly prepare to enter what could be construed as a hostile environment (but leave your helmet at home). Not only are you likely facing an unfamiliar opponent in opposing counsel, the jurisdiction and its rules can be a challenge to navigate. However, being mindful of the potential ethical or practice pitfalls you could encounter can help you succeed in your pro hac vice admission.

### The Application Process

Pro hac vice is a Latin phrase meaning "for this occasion only." State and federal courts have their own pro hac rules, specifying how an attorney who is not a member of the local bar can appear and practice before the court. Courts typically require that local counsel file an Appearance and a

Kate Gould is a Risk Management Attorney at AttPro. When she isn't monitoring the latest trends in the legal malpractice world, she might be cheering on the St. Louis Cardinals. A lifelong Redbirds fan, Kate saw Ozzie Smith's last game and Mark McGwire hit home runs 69 and 70 in the last regular season game in 1998. She married a Cubs fan but is making it work (nearly 20 year later).



Motion to Appear Pro Hac Vice on behalf of the attorney seeking to be admitted. The attorney applying for pro hac vice status is often further required to provide additional information for the court's consideration. For example, in Massachusetts<sup>1</sup>, the attorney must provide a certification stating that they are a member in good standing in every jurisdiction where they are admitted to practice, have no pending disciplinary proceedings against them, and are familiar with the local rules.

This certification is not only your first impression, it requires your strict adherence to Model Rule 3.3<sup>2</sup>, the rule concerning candor to the tribunal. Ensure that you err on the side of disclosing any disciplinary matters, even if you consider the matter a nuisance claim. Specifically, if you have all pending disciplinary matters, be sure you explicitly detail the circumstances of those proceedings. Not only will you comply with the Rules of Professional Conduct, the court will appreciate your honesty and perhaps be more inclined to grant your motion.

### Your Appearance In Court

Walking into an unfamiliar courthouse can feel a bit daunting when you do not know any of the court personnel or how the courtroom itself is set up. When you are on someone else's home turf, recall the privilege of being permitted to appear as pro hac vice counsel and go above and beyond to demonstrate your respect, professionalism, and civility with the judge, court staff, and members of the local bar. Determine whether the local rules include any professionalism standards, including for attire or addressing the court. For example, the Orange County Bar Association has Civility Guidelines<sup>3</sup>, outlining the standards by which Orange County bar members – and visiting attorneys – should conduct themselves. Specifically, counsel is advised to show civility to other lawyers and self-represented litigants by communicating in a professional, businesslike matter. Counsel is further asked to provide accurate redline revisions when exchanging drafts and avoid personal attacks and demeaning comments in private communications and in open court.

Regardless of the local custom or guidelines – whether it be wearing a suit or how you speak to the judge – maintain the highest level of decorum when appearing as pro hac vice counsel. And as you likely certified in your initial Motion to Appear Pro Hac Vice, make sure you have a solid understanding of the local rules. There is nothing more embarrassing than being called out for failing to include all the required elements in a pleading or incorrectly citing a rule or statute. As a visiting attorney, you can expect to be held to a higher standard. We unfortunately can all probably share an instance of being “homered” outside our local jurisdiction.

1 <https://www.mad.uscourts.gov/attorneys/pro-hac-vice.htm>

2 [https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_3\\_3\\_candor\\_toward\\_the\\_tribunal/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_3_3_candor_toward_the_tribunal/)

3 [https://www.ocbar.org/Portals/0/pdf/news/2017/civility\\_guidelines.pdf](https://www.ocbar.org/Portals/0/pdf/news/2017/civility_guidelines.pdf)

4 <https://www.abajournal.com/news/article/no-42-law-firm-by-headcount-could-face-sanctions-over-fake-case-citations-generated-by-chatgpt>

5 [https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_1\\_4\\_communications/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_4_communications/)

### Working With Local Counsel

While the rules concerning pro hac vice admission can vary widely, you will more than likely be required to associate with a member of the local bar, meaning any filings must be signed by local counsel and you must appear together in court. Even if these were not requirements, your client will be best served by you working closely with another attorney with significant experience in the local court.

So how does a pinch hitting attorney best handle this relationship? By keeping these tips in mind, you can successfully and ethically represent your mutual client:

#### The Division of Labor

Like any teammate, you must know your role. In addition to your client fee agreement, specifically itemize the work to be performed by each attorney in a separate agreement. Close collaboration is key to ensuring the work is done timely and accurately. And because you both must sign the pleadings, make sure you allow sufficient time for review and revision before filing. Morgan & Morgan<sup>4</sup> was recently in the news for citing AI-hallucinated cases (a topic for another *Ally* article), and local counsel admitted to not reviewing the pleadings before they were filed and therefore hit with sanctions. This mistake simply cannot happen.

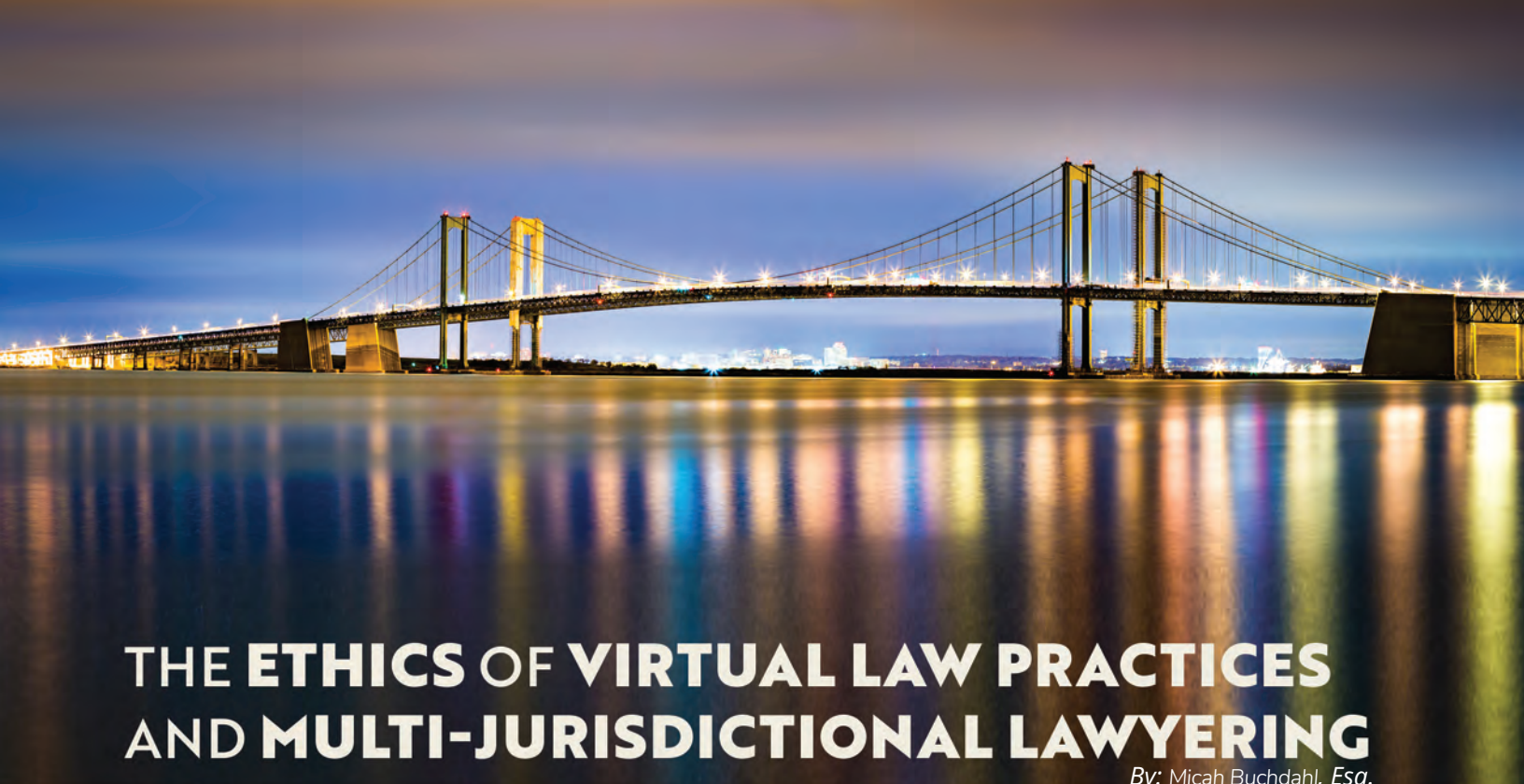
#### Calendaring

Treat being pro hac vice counsel as the opportunity to have another high-level attorney with eyes on your file. Ensure that you and local counsel agree on all the court dates and deadlines you calendar so nothing falls through the cracks. Further, allow local counsel to educate you on any unique deadlines you might not otherwise be familiar with, such as a twenty-day deadline to file versus thirty days.

#### Client Communications

Rule 1.4<sup>5</sup> requires you to keep the client reasonably informed about the pending case and any material developments. Although you may be understandably protective of the client relationship, make sure to coordinate with local counsel to ensure that the client and all counsel of record are in the loop. After all, you share a joint interest in the representation, and local counsel can add value concerning a judge's tendencies or how local juries may perceive an issue.

Remember – being admitted as pro hac vice counsel is acknowledgement of your clean disciplinary record and the confidence your client and the court have in you. Take care to represent yourself, and your client, well. The courthouse may not be eating peanuts and Cracker Jack but might be rooting for the home team. However, by keeping these ethical considerations and tips in mind, you too can knock it out of the park in a road game.



# THE ETHICS OF VIRTUAL LAW PRACTICES AND MULTI-JURISDICTIONAL LAWYERING

By: Micah Buchdahl, Esq.

When I'm driving down I-95 and leave New Jersey to cross into Delaware, I know it. I also know that if I'm caught speeding in Delaware, the only police I need to worry about are the ones with *Delaware* on the side panels. Of course, reciprocity when it comes to fines and points are sometimes blurry, but not nearly as confusing as crossing state lines in your law practice, typically on the Internet. However, most lawyers today have practices that are not confined to one or two states. These two intertwining and overlapping issues—virtual law practices and multi-state jurisdictional issues—go hand in hand, and often create as many questions as answers.

While some think of a virtual law practice as a sole practitioner in their pajamas working out of a home office or basement, the reality is there are huge corporate law VLPs that are basically the equivalent of an AMLAW 200 firm without the bricks and mortar, but with the same attorneys (their former partners) and same clients (portable book of business)—minus some of the office hassles and politics that come with the territory. But whether you are a family law solo or M&A lawyer, you may very well be set up now as a VLP. And the question then is exactly what state are you “Under His Eye” (sorry, my wife and I have been watching ‘The Handmaid’s Tale’

on Hulu...I had to use it)? Figuring out which state bars are “in charge” and have oversight is often half the battle.

MSJ issues have increased substantially over the last decade as the practice of law has shifted more and more from being location-based. For me, advising law firms on ethics issues has often shifted from where the firm or matter is based to where the work or the client might be. I'm typically concerned with the Rules of Professional Conduct as they relate to advertising, marketing, and solicitation in a multitude of jurisdictions that may or may not have authority over the lawyer or law firm. But the myriad of issues are very real, and wading through the muddy waters of VLPs and MJPs can seem treacherous. The central issue has shifted in recent years from “where am I licensed to practice law” to “which jurisdictions come into play.”

## Loosening Regulations

Many states have adjusted their advertising rules in recent years to catch up with technology, multi-jurisdictional practices, and an ever-increasing competitive global marketplace. In the last few years, many states, including Texas and Pennsylvania, have made significant

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Micah Buchdahl is an ethics attorney that focuses on marketing, advertising, and solicitation issues and compliance for law firms. When not reviewing the next great ad campaign to ensure it is kosher, he can usually be found in the closest stadium or arena. Micah (typically with his kids) attends over 100 sporting events each year—including 60+ Phillies games, 10+ Eagles games (yes, that included the Super Bowl), a bunch of Flyers and Temple football and basketball games, and since you can't win them all—15 Sixers games too.



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updates. These include changes to filing requirements, interpretation of solicitation, and enforcement mechanisms. Other states have changes in the works as well, but there are still lots of variables and nuances in prohibitions and required disclaimer language from state to state.

Deregulation of law practice in places like Utah and Arizona—designed to improve access to justice and increase innovation—has some law firms opening offices simply to take advantage of non-lawyer ownership and the benefits that accompany it. For years, among the benefits of having an office in Washington, DC was the ability to share fees with non-lawyers.

### The Model Rule 5.5 Debate

I often hear divergent arguments on Model Rule 5.5 which addresses the Unauthorized Practice of Law. The rule states that a lawyer who is not admitted to practice in a jurisdiction shall not establish an office or other systematic and continuous presence in the jurisdiction for the practice of law or represent that they are admitted to practice law in the jurisdiction. Some attorneys advocate that a lawyer admitted in any United States jurisdiction should be able to practice law without regard to the geographic location of the lawyer or client. Others argue that option means attorneys can come into their state and take business from them. Some attorneys (wrongly) think that a federal practice means not having to worry about certain state bar restrictions.

Whenever people cite the ABA model rules, I remind them that the ABA model rules are just that—model rules. They might provide the structure, but the states control their own rules, including deciding what rules they are going to have and how they will implement them. (Not to mention

vastly different interpretations of the same written regulations.) For example, Missouri issued an [informal opinion](#) finding that any lawyer who practices law within the state—even if they are representing clients or working for a firm located in a different jurisdiction—must be licensed in Missouri. Otherwise, they are engaging in the unauthorized practice of law. Good luck knocking on my hotel room door when I drop my daughter off for school at Washington University next year—nothing to see here, I assure you.

In May 2023, however, Michigan took a different approach. According to adopted changes to its Rule 5.5, lawyers from other states can practice while in Michigan as long as they do not say they have an office, provide legal services, or offer to provide legal services in Michigan. A few states have similar language—don't make it look or sound like you have a state licenser office when you don't.

### Should a Bar License Function Like a Driver's License?

I recently presented on the topic of multi-jurisdictional practice and the unauthorized practice of law with a fellow lawyer and colleague, Charity Anastasio. Charity makes many good arguments for the need to revise Rule 5.5 in today's legal marketplace and contends that we should be able to practice anywhere we can drive. In arguing why those revisions most likely will not come to fruition anytime soon (I reference "in my lifetime"), it is not so much that I'm against the benefits related to making the changes, but that the profession—governed at a state bar level—will simply not allow it. Yes, it might sound perfectly sensible. However, states are not giving up control over the profession and courts. Best to understand where the guard rails are in any and every state where you engage in the practice of law.

**June 11, 2025 | 1:00pm ET**

As the practice of law has increasingly shifted from being location-based, where the work or client is located becomes the focus. Understanding the Rules of Professional Conduct when working in a multitude of jurisdictions becomes critical to ensure you are in compliance. Micah Buchdahl, founder and president of HTMLawyers, Inc., shares his expertise as to how you can navigate the challenges of virtual law practices and multi-jurisdictional lawyering. Learn about proposed changes to Rule 5.5 and responses from states and organizations. Kate Gould, Attorney Protective Risk Management Consultant, will join him to discuss recent opinions to help you maximize the versatility of your license.

## Brick and Mortar No More: ETHICAL ISSUES WITH MULTI-JURISDICTIONAL LAWYERING



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Monica has over 20 years of expertise in the insurance industry. She is an avid animal lover and shelter volunteer who is passionate about cooking, fishing, spending time with her daughters and of course insurance!

