

Local Counsel in Iowa Required to Function as “Co-counsel”

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[Iowa State Bar Association Committee on Ethics and Practice Guidelines, Ethics Opinion 13-02 \(2013\)](#)

Brief Summary

Iowa Ethics Opinion 13-02 requires an Iowa lawyer who sponsors the *pro hac vice* admission of an out-of-state lawyer to avoid subservience to the out-of-state lawyer and to effectively act as co-counsel with the out-of-state lawyer.

Complete Summary

In determining the responsibilities of Iowa lawyers who sponsor *pro hac vice* admission of out-of-state lawyers, the Committee analyzed Iowa Sup. Ct. R. 31.14(3), which calls for the Iowa lawyer to actively participate in the matter and to remain responsible for the conduct of the proceeding.

Regarding the active participation requirement, the Committee opined that the Iowa lawyer must set the operational parameters of the representation and only allow the out-of-state lawyer to operate independently (outside of the Iowa lawyer’s presence) in limited situations. The opinion gives the example of an Iowa lawyer who after due diligence determines that his or her presence is not needed during a deposition because it is taken only for discovery purposes. In such a situation, the Iowa lawyer may allow the out-of-state lawyer to conduct the deposition without violating the rule against the assistance of unauthorized practice of law in Iowa.

Regarding remaining responsible for the conduct of the proceeding, the Committee opined that this requirement precludes the Iowa lawyer from limiting the scope of representation (as is otherwise allowed under Iowa RPC 32:1.2(c)). The Committee also opined that Iowa lawyers have certain duties under the RPCs that are not delegable to the out-of-state lawyer, namely: the obligation to engage in strategic planning dialogue (Rule 32:1.4(a)(2)), and the obligation to educate the client (Rule 32:1.4(b)).

Significance of Opinion

This opinion demonstrates that, compared to many other states, Iowa places an elevated amount of responsibility on Iowa lawyers who agree to sponsor out-of-state lawyers.

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