

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 946

Adopting Bar Rule 44.1 concerning
Foreign Law Consultants.

IT IS ORDERED:

Bar Rule 44.1 is adopted to provide:

Rule 44.1 FOREIGN LAW CONSULTANTS.

(a) Introduction. A person who is admitted to practice in a foreign country as an attorney or counselor at law or the equivalent, and who complies with the provisions of this rule for licensing of foreign law consultants, may provide legal services in the State of Alaska to the extent allowed by this rule.

(b) Eligibility. In its discretion, the court may license to practice as a foreign law consultant, without examination, an applicant who:

(1) for a period of not less than 5 of the 7 years immediately preceding the date of application:

(A) has been admitted to practice and has been in good standing as an attorney or counselor at law or the equivalent in a foreign country, and

(B) has engaged either (i) in the practice of law in that country or (ii) in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in that country;

(2) be of good moral character, which will be found unless prior or present conduct of the applicant would cause a reasonable person to believe that the applicant, if admitted to practice as a foreign legal consultant, would be unable or unwilling to act honestly, fairly and with integrity; and

(3) intends to practice as a foreign law consultant in the State of Alaska.

(c) Applications.

(1) An applicant for a license as a foreign law consultant shall file with the Executive Director at the office of the Alaska Bar Association an application, in duplicate, in the form provided by the Board. The application must be made under oath and must contain information relating to the applicant's age, residence, addresses, citizenship, occupations, general education, legal education, moral character and other matters as may be required by the Board. Any notice required or permitted to be given an applicant under these rules, if not personally delivered, will be delivered to the mailing address declared on the

application unless notice in writing is actually received by the Board declaring a different mailing address. An applicant shall submit two duplicate 2-inch by 3-inch photographs of the applicant showing a front view of the person's head and shoulders. The application is deemed filed only upon receipt of a substantially completed form with payment of all required fees. Applications received without payment of all fees or which are not substantially complete will be promptly returned to the applicant with a notice stating the reasons for rejection and requiring payment of such additional fees as may be fixed by the Board as a condition of reapplication.

(2) The application must be accompanied by the following documents, together with duly authenticated English translations if the documents are not in English:

(A) a certificate from the authority having final jurisdiction over professional discipline in the foreign country or jurisdiction in which the applicant was admitted to practice, which must be signed by a responsible official, or one of the members of the executive body of such authority, and which must be accompanied by the official seal, if any, of the authority, and which must certify:

(i) as to the authority's jurisdiction in such matters,

(ii) as to the applicant's admission to practice in the foreign country, the date of admission and the applicant's good standing as an attorney or counselor at law or the equivalent, and

(iii) as to whether any charge or complaint has ever been filed against the applicant with the authority, and, if so, the substance of each charge or complaint and the adjudication or resolution thereof;

(B) a letter or recommendation from one of the members of the executive body of the authority or from one of the judges of the highest law court or court of general original jurisdiction of the foreign country, certifying the applicant's professional qualifications, together with a certificate from the clerk of the authority, or of the court, attesting to the genuineness of the person's signature;

(C) a letter of recommendation of at least two attorneys or counselors at law or the equivalent admitted in and practicing in the foreign country, stating the length of time, when, and under what circumstances they have known the applicant, and their appraisal of the applicant's moral character; and

(D) other relevant documents or information as may be required by the Court or by the Board.

(3) The statements contained in the application and the supporting documents will be reviewed by the Board who shall report the results of

their review with recommendations to the court. Prior to the grant of any license, the court must be satisfied of the good moral character of the applicant.

(4) In considering whether to license the applicant as a foreign law consultant under this rule, the court has discretion to consider whether ~~if~~ an attorney in Alaska would be allowed a reasonable and practical opportunity to establish an office to give legal advice to clients in the applicant's country of admission. In order to exercise its discretion, the court must require a reasonable showing that:

(A) an attorney in Alaska actively sought to establish an office in the applicant's country of admission;

(B) the authority in the foreign country having final jurisdiction over the application process in subsection (A) denied the attorney in Alaska an opportunity to establish an office in that foreign country; and

(C) the denial in subsection (B) raises serious questions as to the adequacy of the opportunity for an attorney in Alaska to establish an office in the foreign country.

(d) Hardship Waiver. Upon a showing that strict compliance with the provisions of subparagraph (b)(1) or (c)(2) of this rule would cause the applicant unnecessary hardship, or upon a showing of exceptional professional qualifications to practice as a foreign law consultant, the

court may waive or vary the application of such provisions and permit the applicant to make any other showing as is satisfactory to the court.

(e) Scope of Practice. A person licensed as a foreign law consultant under this rule may provide legal services in the State of Alaska, subject to the limitations that the person shall not:

(1) appear for another person as attorney in any court or before any magistrate or other judicial officer in the State of Alaska, or prepare pleadings or any other papers in any action or proceeding brought in any such court or before any such judicial officer, except as authorized by Civil Rule 81(a)(2);

(2) prepare any deed, mortgage, assignment, discharge, lease, agreement, sale or any other instruction affecting title to real estate located in the United States of America;

(3) prepare:

(A) any will or trust instrument affecting the disposition of any property located in the United States of America and owned by a resident of the United States of America, or

(B) any instrument relating to the administration of a decedent's estate in the United States of America;

(4) prepare any instrument concerning the marital relations, rights or duties of a resident of the United States of America, or the custody or care of the children of a resident;

(5) provide professional legal advice on the law of the State of Alaska, any other state or territory of the United States of America, the District of Columbia, the United States or any foreign country other than the country where the consultant is admitted as an attorney or counselor at law or the equivalent, whether provided incident to the preparation of legal instruments or otherwise. If a particular matter requires legal advice from a person admitted to practice law as an attorney in a jurisdiction other than where the consultant is admitted as an attorney or counselor at law or equivalent, the ~~Foreign Law~~ Consultant shall consult an attorney, counselor of law or the equivalent in the other jurisdiction on the particular matter, obtain written legal advice and transmit the written legal advice to the client;

(6) in any way represent that the person is licensed as an attorney or counselor at law in the State of Alaska, or the equivalent in any jurisdiction, unless so licensed; or

(7) use any title other than "foreign law consultant"; provided that the person's authorized title and firm name in the foreign country in which the person is admitted to practice as an attorney or counsel at law or the equivalent may be used if the title, firm name, and the name

of the foreign country are stated together with the title "foreign law consultant."

(f) Disciplinary Provisions.

(1) A person licensed to practice as a foreign law consultant under this rule is subject to the jurisdiction of the Alaska Supreme Court, the Disciplinary Board of the Alaska Bar Association, the Rules of Disciplinary Enforcement, and Ethics Opinions adopted by the Board of Governors of the Alaska Bar Association.

(2) A person licensed to practice as a foreign law consultant shall execute and file with the clerk, in the form and manner as the court may prescribe:

(A) a statement that the foreign law consultant has read and will observe the Rules of Disciplinary Enforcement, Ethics Opinions adopted by the Board of Governors of the Alaska Bar Association, and the Code of Professional Responsibility;

(B) an undertaking or appropriate evidence of professional liability insurance, in an amount as the Court may prescribe, to insure the foreign law consultant's proper professional conduct and responsibility;

(C) a signed document stating the foreign law consultant's address within the State of Alaska and designating the clerk of this court as the

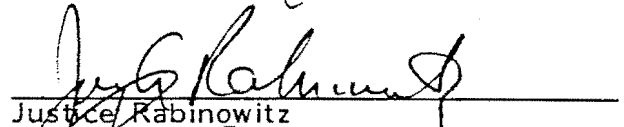
consultant's agent upon whom process may be served, with the effect as if served personally upon the consultant, in any action or proceeding brought against the consultant arising out of or based upon any legal services rendered or offered to be rendered by the consultant within or to residents of the State of Alaska, if due diligent service cannot be made upon the consultant at the consultant's address; and

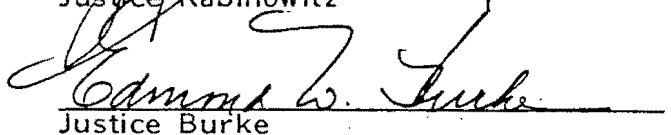
(D) a commitment to notify the Court of any resignation or revocation of the foreign law consultant's admission to practice in the foreign country of admission, or of any censure, suspension, or expulsion respecting admission.

DATED: September 22, 1988

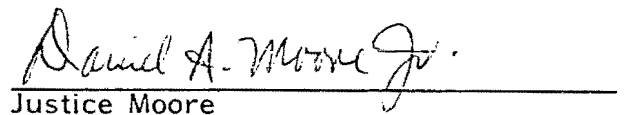
EFFECTIVE DATE: January 15, 1989


Chief Justice Matthews


Justice Rabinowitz


Justice Burke


Justice Compton


Justice Moore