District of Columbia Court of Appeals
Committee on Unauthorized Practice of Law
500 Indiana Avenue, N.W.
Washington, D. C. 20001
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OPINION 20-08:

LIMITATIONS ON NOTICE OF BAR STATUS UNDER RULE 49(c)(8)

Issued January 18, 2008

District of Columbia Court of Appeals Rule 49(c)(8) authorizes lawyers who are admitted only in other jurisdictions to practice law in the District of Columbia if, among other things, they submit a timely application to the D.C. Bar and provide notice of their bar status. In Opinions 11-02 and 5-98, the District of Columbia Court of Appeals Committee on Unauthorized Practice of Law (the "Committee") provided guidance concerning compliance with this notice obligation. Specifically, the Committee has advised that a practitioner's business documents may state, for example, "Admitted only in [specified states]" or "Not admitted in D.C." The primary purpose of the required notice is to inform third parties and the public at large of the limited nature of an attorney's authority to practice law in the District of Columbia. *See* Opinion 5-98.[1]

Some practitioners who invoke the (c)(8) exception have used terms like "D.C. admission pending" in purported compliance with this obligation to provide notice of their bar status. The Committee believes that this term is likely to be misleading because it implies that the grant of a

[1] Other exceptions requiring notice of bar status include Rule 49(c)(2), (5), (8), (9), and (10). *See also* Opinion 17-06 (interpreting Rule 49(c)(3) to require lawyers who are based in the District of Columbia and practice before federal courts in the District of Columbia to provide notice of their bar status).

pending application for admission to the D.C. Bar is a formality. Even if an individual meets some of the requirements for applying for admission to the D.C. Bar (for example, the individual has been a bar member in good standing for five years in another jurisdiction and therefore satisfies one criterion for admission without examination), admission to the D.C. Bar is not automatic. The term "admission pending" therefore should not be used as part of a notice of bar status under Rule 49(c)(8).[2]

Lawyers and law firms should also use care with respect to the term "application pending." Whether a practitioner has an application pending may be relevant to whether the practitioner qualifies for the temporary exception in Rule 49(c)(8), and it may be appropriate to advise clients and third parties that the lawyer is attempting to become a member of the D.C. Bar. However, depending on the context, use of the term "application pending" may incorrectly imply that the grant of the pending application is only a matter of time, that the mere pendency of an application provides some protection for clients, or that bar admissions authorities made a preliminary judgment in accepting the application that the applicant is qualified to practice law here. Lawyers and law firms that use the term "application pending" as part of the required notice under Rule 49(c)(8) should avoid any such implication, and they should make a clear disclosure of their bar status, as well as of the supervision required by Rule 49(c)(8).

Pursuant to Rule 49(d)(3)(G), the Committee approved this opinion by a majority vote of a quorum of its members. The staff of the Committee shall cause this opinion to be submitted

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[2] The statement may be literally true during the period after the Committee on Admissions notifies the applicant that he or she is certified for admission, and before the applicant actually takes the oath before the Court of Appeals. However, that period is usually only a few weeks, and in the Committee's experience, the practitioners who use this term do not add it to all of their business documents only during this relatively brief time.

for publication in the same manner as the opinions rendered under the Rules of Professional Conduct.

Done this 18th day of January, 2008.

Anthony C Epstein.

Chair
District of Columbia Court of Appeals
Committee on Unauthorized Practice of Law