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Pennsylvania Practice and Procedure - Principal Office Rule

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self-employed claimant whose disability limits his working capacity to the supervision of others, the issue of "total disability" is a question of fact for the jury. It is no longer a matter of law that the ability to perform supervisory work removes a self-employed claimant from the class of the "totally disabled."

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PENNSYLVANIA PRACTICE AND PROCEDURE—Principal Office Rule—The Pennsylvania Supreme Court has amended this rule to allow attorneys to practice in all counties.

In Re: Amendment to Rule 14 of the Rules of the Supreme Court of Pennsylvania, 419 Pa. (5), — A.2d — (1965).

Last November, in response to a petition filed by the Philadelphia Bar Association, the Pennsylvania Supreme Court adopted a resolution amending Rule 14 of the Rules of Court.[1] This amendment, although apparently definitive, has not entirely resolved the controversy. The crux of the uncertainty which remains is the extent of elimination of the Principal Office Rule[2] and its concomitant requirement that an "out of county" attorney retain a local associate before practicing in a county other than the one in which he maintains his principal office. Briefly stated, the Principal Office Rule allows a state certified attorney to practice only in the county in which he maintains his principal office. By virtue of this Rule, a nonresident attorney can maintain suit in another county only if he retains a local associate, *i.e.*, an attorney who does maintain his principal office in that county.

Historically, the Principal Office Rule began with the case of *Hoopes v. Bradshaw*.[3] There the supreme court was faced with interpreting the Act of May 8, 1909, P.L. 475, which stated that:

1. PA. SUP. CT. R. 14 (1966). Although adopted in 1965, the amended Rule first appeared in the 1966 Supreme Court Rules.

2. The pertinent section of this rules reads as follows:

> Admission to the bar of this Court shall entitle anyone so admitted to admission to the bar of any other court of this Commonwealth, subject however, to the right of the County Board of the county in which his application for admission to the bar is filed to pass upon the applicant's fitness and general qualifications (other than scholastic), notwithstanding any prior certification to such effect by the County Board of the county of his original registration, and subject, further, to the applicant's filing with the County Board, if local rules so require, his written promise to establish and maintain his principal office and place of law practice in the county to whose bar he seeks admission. PA. SUP. CT. R. 14 (1965).

3. 231 Pa. 485, 80 Atl. 1098 (1911).

> . . . admission to practice as an attorney at law in every other court of the Commonwealth shall of itself, without more, operate as an admission of such attorney as an attorney at law in every other court of the Commonwealth, without any further action by such other courts or by such attorney.[4]

Hoopes, a member of the Allegheny County Bar, claimed that this Act entitled him to practice before the bar of Beaver County. The Court of Common Pleas of Beaver County denied his admission on the grounds that this Act was an unconstitutional usurpation of judicial power by the legislature. The Pennsylvania Supreme Court affirmed the result, but rejected the rationale of unconstitutionality. In so doing, the court ruled that even though the Act was constitutional, it did not prohibit local courts from establishing their own requirements for admission. In examining the effect of the Act upon the service of notices and papers upon nonresident attorneys, the court reasoned that an influx of out-of-county attorneys might unreasonably inconvenience resident practitioners and unduly clog court dockets. Thus, the court expressly approved the Principal Office Rule by holding it to be within the ambit of the powers of the local courts.[5]

In 1923, the General Assembly amended the Act of 1909.[6] Although this amendment made no mention of the maintenance of a principal office as a prerequisite to county practice, the supreme court in *Olmsted's Case*[7] again expressly approved this Rule. The rationale of this decision was that the Rule operated to aid the effective operation of the courts.

Stewart v. Bechtel[8] was the next pertinent case decided. The trend which *Stewart* emphasized probably led to the adoption of Rule 12½—later to become Rule 14. In this case, the supreme court construed the Act of 1923 as permitting a county to establish its own standards of admission. Rule 12½, adopted by the court in 1949, was an explicit acceptance of the Principal Office Rule. Finally, in the *Christy Case*[9] the United

4. Act of 1909, May 8, P. L. 475, quoted in Hoopes v. Bradshaw, *id.* at 487, 80 Atl. at 1099.

5. *Id.* at 491, 80 Atl. at 1100.

6. PA. STAT. ANN. tit. 17, § 1605 (1923):

> Admission now had or that may hereafter be had to practice as an attorney-at-law in the Supreme Court of this Commonwealth shall, upon the approval of the local examining board, qualify such attorney for admission to practice as an attorney-at-law in every other court of this Commonwealth, and upon such approval shall operate as an admission of such attorney in any other court of this Commonwealth upon his filing, in the office of the prothonotary or clerk of said court, a certificate of admission in the Supreme Court and a certificate of approval from the local examining board and the payment to such prothonotary or clerk of a fee of one dollar.

7. 292 Pa. 96, 140 Atl. 634 (1928).

8. 360 Pa. 123, 61 A.2d 514 (1948).

9. 362 Pa. 347, 67 A.2d 85 (1949), *cert. denied*, 338 U.S. 869 (1949).

States Supreme Court, by denying certiorari, failed to disturb a Pennsylvania Supreme Court finding of constitutionality. With the Principal Office Rule thus intact, a Pennsylvania attorney could be denied the right to practice in any county other than that in which he maintained his principal office.

Various arguments have been advanced both for and against the Principal Office Rule. Most of the arguments against the Rule are based upon its impracticality and uselessness. The advocates of this position argue that the provincialism inherent in the Principal Office Rule paints a dull picture of Pennsylvania as a progressive state and thus hinders its growth and expansion. It has been further argued that the original justification for the rule no longer exists. In earlier times, the burdens of travel and communication militated in favor of the Rule. Today, with the increased use of air transportation and with various turnpikes and expressways available, distance is no longer an obstacle. A significant argument against the Rule is that it operates contrary to the best interests of the client; that is, since an out-of-county attorney must retain a local associate and this associate is also entitled to a fee, the costs to the client increase. The final argument of those who oppose the Rule is that it violates the due process and equal protection clauses of the fourteenth amendment.

On the other hand, proponents of the Principal Office Rule deny all these arguments and contend that in Pennsylvania a countywide practice is the most advantageous and practical type available. They reason that by the maintenance of a geographically restricted practice the courts are better able to control their dockets, and county bars are better qualified to govern disciplinary matters and to control requirements for admission. Furthermore, it is argued that since most counties have procedural peculiarities with which nonresident attorneys would not be familiar, the Rule requiring local associates lends itself to better service to a client.

Since the Supreme Court of Pennsylvania decided to amend Rule 14, it apparently accepted the arguments of the adversaries of the old Rule. The only problem now remaining is the interpretation of Rule 14 as amended:

> Admission to the Bar of this court shall entitle such attorneys to admission to the bar of and to practice in all courts of this Commonwealth.
>
> No person shall be admitted to practice before any court of this Commonwealth unless he has received a certificate from the State Board of Law Examiners recommending his admission to the bar of this Court.
>
> Any and all local rules for admission to the respective bars of the courts of the several counties of this Commonwealth which require an office, or a partner, or associate, or assistant within that county, or which prescribes length of residence in that

> county as a prerequisite to admission to the local bar, or which limit the number of admissions upon a quota basis, or prescribe other requirements, are hereby superseded.[10]

There are four possible ways in which county bars may interpret this Rule. The first is to take a literal view; that is, to interpret the Rule strictly. Paragraph 1 of Rule 14 grants to all attorneys admitted to the state bar the privilege of practicing before any county bar. This paragraph also precludes denying admission to a state certified attorney. Therefore, under this view a county bar might just as well grant automatic admission to all attorneys certified by the state. A more strict interpretation might construe this paragraph as granting automatic admission to county bars upon acceptance in the state bar.

The second alternative is not to object to or attempt to prohibit nonresident attorneys from practicing within the county, but to require them first to seek admission to the local county bar. While paragraph 1 of this rule entitles nonresident attorneys to practice in and be admitted to the bars of the several counties, it in no way implies that this admission should be granted without these nonresident attorneys meeting the same requirements that are necessary for resident attorneys. This would encompass registration, the payment of a registration fee, and, in some counties, a personal interview. Although these requirements are not difficult to comply with, obtaining admission may be overly troublesome. For example, the attorney who will handle only a small number of cases within a given county may feel that the existing registration procedures are too onerous because of time and financial requirements. Thus, he would not seek admission to the county bar, and, although literally entitled to practice in that county, as a practical matter he would not.

The third way in which to construe this Rule would be to require nonresident attorneys to meet certain criteria. Even though paragraph 3 of Rule 14 prescribes certain requirements, it does not eliminate all others. If a requirement were made that bore a reasonable relationship to the effectiveness of the judicial process (such as proof by a nonresident attorney of his availability, or knowledge of the idiosyncrasies of the procedure of a particular county), it would probably pass judicial scrutiny under this rule.

Alternative four consists of a combination of methods two and three. This interpretation first requires admission to the county bar. In addition, it would make the requirements for admission more stringent. However, these requirements would necessarily have to be applicable both to resident and nonresident attorneys. An example of this approach would be to require an attorney seeking admission to a county bar to show that

10. PA. SUP. CT. R. 14 (1966).

he can be in court, on any given day, with only two hours notice. Most nonresident attorneys would not be able to comply with these requirements and would be denied admission to the county bar, and would thereby be prevented from practicing in the county courts. Naturally, as with method three above, the requirements must bear some reasonable relationship to effective judicial administration.

In summary, it should be noted that at the time of this writing there has been no judicial decision or interpretation of Rule 14. It is interesting to note, however, that in a situation arising in Allegheny County (which was a strong proponent of the amendment), President Judge Henry Ellenbogen upheld the Prothonotary's refusal to allow a Washington County attorney to file a suit in Allegheny County. In a statement to the press, Judge Ellenbogen said that "a large amount of problems must be solved before the amendment can be implemented. He said he has turned the matter over to a committee of the Board of Judges and to the Allegheny County Bar Association for study."[11]

In the absence of a supreme court interpretation, if every county takes this approach in implementing Rule 14, it is quite possible that we will be faced with sixty-seven different interpretations and ultimately with more confusion than existed before the amendment was passed.

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11. Pittsburgh Post-Gazette, Dec. 13, 1965, p. 27, col. 4.