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## **Amendments to the Rules Regulating The Florida Bar & the Rules of Judicial Administration**

MARSHAL: PLEASE RISE. HEAR YE. HEAR YE. HEAR YE. THE SUPREME COURT OF THE GREAT STATE OF FLORIDA IS NOW SESSION. ALL WHO HAVE CAUSE TO PLEA, DRAW NEAR, GIVE ATTENTION AND YOU SHALL BE HEARD. GOD SAVE THESE UNITED STATES, THE GREAT STATE OF FLORIDA AND THIS HONORABLE COURT. LADIES AND GENTLEMEN, THE FLORIDA SUPREME COURT OF PLEASE BE SEATED.

CHIEF JUSTICE: GOOD MORNING, LADIES AND GENTLEMEN, AND WELCOME TO THE FLORIDA SUPREME COURT. I WOULD LIKE TO WELCOME, THIS MORNING, STUDENTS FROM THE LEGAL STUDIES CLASS OF KISER COLLEGE. THEY ARE HERE ON THEIR ANNUAL VISIT TO THE CAPITOL, WITH THEIR INSTRUCTOR, MONICA RANGLER. WE WELCOME YOU. VERY INTERESTING CASE THAT YOU WILL BE LISTENING TO IS THE FIRST CASE. YOU MAY OR MAY NOT FIND IT INTERESTING, BUT IT IS WHAT WE HAVE FOR YOU THIS MORNING. BEFORE I CALL THE FIRST CASE AND BEFORE WE GET STARTED, SINCE I KNOW WE HAVE 90 MINUTES ALLOTTED, WHICH IS A FARRELY LENGTHY TIME FOR A RULES AFFAIRLY LENGTHY TIME FOR A RULES CASE, IT RELATES TO THE RULES OF THE BAR AND THE RULES OF JUDICIAL ADMINISTRATION. I KNOW THE PARTIES ARE READY, AND I UNDERSTAND THAT THE TIME IS DIVIDED WITH THE BAR AND INTERNATIONAL LAW SECTION SPEAKING FOR THE FIRST 20 MINUTES AND THEN RESERVING 25 MINUTES FOR REBUTTAL. I AM AUTHORIZED, ON BEHALF OF MY COLLEAGUES, TO SAY THAT, JUST BECAUSE WE HAVE ALLOTTED 90 MINUTES, OUT OF THE GOODNESS OF OUR HEARTS, DOESN'T MEAN THAT YOU NEED CONSUME THE ENTIRE 90 MINUTES, AND THAT THE COURT IS VERY FAMILIAR WITH THE PETITION AND HAS READ ALL THE COMMENTS, AND SO WITH THAT, I WOULD ASK THAT THE, FOR THE BAR TO PRESENT THEIR CASE, AND THEN WE'LL SORT OF SEE HOW THE ARGUMENT GOES. GOOD MORNIN G.

GOOD MORNING. MAY IT PLEASE THE COURT. MY NAME IS JOHN YANCHUNIS. I AM REPRESENTING THE BAR HERE TODAY, ALONG WITH LORI HOLCOMB, WHO IS STAFF UPPL COUNSEL. JUSTICE PARIENTE, I WILL TAKE THOSE WORDS OF WISDOM. IN THE PRACTICE OF LAW, I DON'T SPEAK OVER JUDGES, I DON'T SPEAK AFTER THEY HAVE RULED, AND I WAS HAVING THE DICKENS, TRYING TO FIGURE OUT HOW I WILL TAKE UP 45 MINUTES OF THE COURT'S TIME, AND I WILL BE VERY JUDICIOUS IN THE WAY I USE THAT THIS MORNING. YOU KNOW, THE PRACTICE OF LAW DECADES, PERHAPS HUNDREDS OF YEARS AGO, WAS FAR DIFFERENT IN THIS COUNTRY. LAWYERS BEGAN THE PRACTICE OF LAW, BY PRESENTS SHIP. THEY READ THE LAW AND APPRENTICESHIP. THEY READ THE LAW. THE FIRST COLLEGE WILLIAM AND MARY HAD THE FIRST LAW SCHOOL. IN THE 1900s, AND OVER TIME, LAWYERS OR UNIVERSITIES, BEGAN A MORE FORMAL EDUCATION INDICATION OF STUDENTS. EDUCATION OF STUDENTS. AT ONE TIME IN THIS COUNTRY AND I THINK, STILL, IN THE STATE OF WISCONSIN, GRADUATES OF LAW SCHOOLS LOCATED IN THE STATE, WERE IMMEDIATELY ADMITTED INTO THE PRACTICE OF LAW IN THAT STATE. OVER THE COURSE OF TIME, THE ADMISSIONS PROCESS CHANGED. BACK, YEARS AGO, LAWYERS TYPICALLY STAYED WITHIN THEIR OWN COMMUNITIES TO PRACTICE. YOU HAD NO NEED TO BECOME A MEMBER OF THE BARS OF DIFFERENT STATES, BECAUSE TRANSPORTATION AND THE NEEDS OF THE LEGAL COMMUNITY, DID NOT REQUIRE THAT LAWYERS GO OUTSIDE OF THEIR OWN COMMUNITY, OR IF, SO OUTSIDE OF THE TERRITORIAL BOUNDARIES OF THE TERRITORY OR STATE WHERE THEY LIVED IN. THE BAR ADMISSION PROCESS TOOK GREATER SHAPE. WE BEGAN TO HAVE IN THIS COUNTRY, BAR EXAMS TO TEST, TO ENSURE THAT LAWYERS OR LAW STUDENTS, HAD A MODICUM OF KNOWLEDGE OF THE LAW OF A PARTICULAR STATE. CHARACTER AND FITNESS WASN'T REALLY A KNOWN CONCEPT, BUT THAT, TOO, BEGAN TO

DEVELOP. WHILE I WAS A MEMBER OF THE BAR EXAM, EXAMINERS, FOR INSTANCE, THE COURT ADOPTED THE ESSENTIAL ELIGIBILITY REQUIREMENTS FOR THE PRACTICE OF LAW. THE COURT TOOK A VERY PROGRESSIVE LOOK AT SOME OF THE ISSUES AFFECTING BAR EXAMINERS AROUND THE COUNTRY, SUCH AS MENTAL HEALTH. ADDICTIVE BEHAVIORS. AND TODAY, IN THE STATE OF FLORIDA, WE HAVE THE GOLD STANDARD FOR CHARACTER AND FITNESS ADMISSION REQUIREMENTS FOR THE PRACTICE OF LAW. BUT THE LAW AND THE PRACTICE OF LAW CHANGED. LAWYERS HAVE BEGUN, FOR MANY YEARS, IN FACT, IN THIS STATE, IN OTHER STATES, TOO, TO TAKE THEIR PRACTICES AND TO PROVIDE LEGAL SERVICES IN STATES OTHER THAN THOSE IN WHICH THEY ARE ADMITTED. WE HAVE HAD, FOR SOME TIME, LAWYERS WHO COME DOWN INTO THE STATE OF FLORIDA, WHO HAVE REPRESENTED CLIENTS, WHETHER THEY BE IN THEIR HOST STATE OR IN THE STATE OF FLORIDA. THE NEEDS OF THEIR CLIENTS, INsofar AS NEGOTIATING OFF CONTRACTS, BOND ISSUES AND, SOMETIMES, ARBITRATIONS, AND, EVEN, MORE FORMAL PROCEEDINGS LIKE COURT PROCEEDINGS. TODAY, UNLESS THOSE, UNLESS WE MAKE A CHANGE, EACH OF THOSE PRACTICES, IS UNLAWFUL. IT IS THE UNLICENSED PRACTICE OF LAW, FOR A NONLAWYER, THAT IS ANYONE NOT ADMITTED TO PRACTICE IN THE STATE OF FLORIDA, TO PRACTICE LAW IN THE STATE OF FLORIDA. AND WE KNOW THAT THE PRACTICE OF LAW DOESN'T NECESSARILY MEAN PRACTICE IN A COURTROOM. WE BELIEVE IT INVOLVES REPRESENTING INDIVIDUALS IN ARBITRATION. IT REPRESENTS, IT INVOLVES PEOPLE REPRESENTING THEIR OWN CLIENTS IN THEIR STATE OR IN THE STATE OF FLORIDA, IN THE NEGOTIATING OF CONTRACTS, IN TAKING DEPOSITIONS.

LET ME DIRECT YOU, IF YOU WOULD, TO A CONCERN THAT I HAVE HEARD EXPRESSED ACROSS THE COUNTRY, AND DISCUSSED IT, FOR INSTANCE, AT THE CONFERENCE OF CHIEF JUSTICES ON MULTISTATE JURISDICTIONAL MATTERS, AND THAT IS HOW WE FIT THE PRESENT LAWYER DISCIPLINE SYSTEM AROUND THE CONCEPT THAT THE BAR IS DEALING WITH HERE, BECAUSE WE HAVE THE MULTISTATE, LOCALIZED DISCIPLINARY SYSTEM, AND IT NECESSARILY, THE CONCERN THAT THE COURT HAS TO HAVE, AS WELL AS THE BAR, IS THAT THE PUBLIC LOOKS TO US, TO ENSURE THAT LAWYERS WHO ARE PRACTICING IN FLORIDA, ARE PRACTICING IN ACCORDANCE WITH THE RULES OF ETHICS. WHAT SPECIFICALLY, IS DONE TO DEAL WITH THAT ISSUE?

THESE AMENDMENTS, YOUR HONOR, TODAY, WOULD SEEK TO EXPAND, BOTH THE DISCIPLINARY ISSUES OF THE FLORIDA BAR AND OF THIS COURT, AS WELL AS THE PROTECTION TO SAY THE PUBLIC. FOR INSTANCE, WE WOULD REQUIRE THAT, IN ARBITRATIONS, THE PRACTICE, NOW, IS, BUT NOT THE RULE, THE PRACTICE IS THAT LAWYERS COME INTO OUR STATE FROM OUT-OF-STATE AND REPRESENT FLORIDA RESIDENTS IN ARBITRATIONS. UNREGULATED. EVEN THOUGH THAT IS A FELONY. EVEN THOUGH THAT IS THE UNLICENSED PRACTICE OF LAW. BUT THE SYSTEM IS COMPLAINT-DRIVEN. WE NEED TO HAVE A COMPLAINT FILED WITH THE FLORIDA BAR, BEFORE THE FLORIDA BAR WILL TAKE ACTION. WHAT THIS RULE DOES, IS IT REQUIRES THAT LAWYERS WHO SEEK TO REPRESENT INDIVIDUALS IN ARBITRATION OR COMPANIES IN ARBITRATION, HAVE TO FILE WITH THE FLORIDA BAR, A NOTICE THAT THEY ARE REPRESENTING SOMEBODY IN AN ARBITRATION. WE RESTRICT THAT, OF COURSE, TO THREE TIMES WITHIN A 365-DAY PERIOD, BECAUSE WHAT WE ARE TRYING TO ENSURE, THAT THERE IS NOT INDIVIDUALS WHO ARE UNLICENSED, ENGAGED IN THE GENERAL PRACTICE OF LAW, THAT WE ARE, THEY ARE ONLY INVOLVED IN THE PRACTICE OF LAW ON A TEMPORARY BASIS. INsofar AS, BOTH, INTERNATIONAL ARBITRATION AS WELL AS ARBITRATION, AS WELL AS THE TEMPORARY PRACTICE OF TRANSACTIONAL LAWYERS, WE TRANSIENTAL LAWYERS, WE REQUIRE THAT TRANSACTIONAL LAWYERS, WE REQUIRE THAT THEY RESIDE IN A STATE WHERE THEY HAVE NOT BEEN REVOKED AND THEY HAVE NOT BEEN SUBJECT TO DISCIPLINE IN ANOTHER STATE.

SO THAT IS THE DISCIPLINARY PART. IS THAT THE REASON FOR THIS \$250 FEE, TO BE CHECKING THIS? IS THAT THE IDEA OF IT?

HONESTLY, YOUR HONOR, LAWYERS HERE IN THE STATE PAY A BAR DUE ANNUALLY, AND THE

COURT WELL KNOWS THAT A SIGNIFICANT AMOUNT OF THOSE BAR DUES GOES TO A SELF-FUNDED REGULATORY SYSTEM. PART OF THAT \$250 GOES TO DEFRAY THE COST OF THE DISCIPLINARY SYSTEM.

BUT I GUESS , LET 'S JUST , AS OF TODAY , AND OTHER THAN THE RAPA PORT CASE , I AM NOT AWARE OF ANY TIME. YOU SAID IT HAS BEEN THE PRACTICE, AND THIS SEEMS TO BE A DISPUTE WITH THE OPPONENTS OF THIS RULE , THE BAR THINKS THAT THEY ARE EXPANDING THE PRACTICE AND MAKING IT MORE OPEN TO NONFLORIDA LAWYERS BY THIS RULE, AND THE OPPONENTS THINK IT IS RESTRICTING IT , AND SO WE START WITH THE IDEA THAT , I SEE MS. HOLCOMB IS MOVING UP, BECAUSE THIS IS UNAUTHORIZED PRACTICE, THAT THIS HAS BEEN SORT OF A BENIGN NEGLECT THAT WE HAVE HAD , AS YOU HAVE CANDIDLY ADMITTED, FOR THE LAST HOW MANY YEARS, LAWYERS HAVE BEEN CONDUCTING ARBITRATIONS IN FLORIDA , WITHOUT BEING SUBJECT TO BEING PROSECUTED FOR THE UNAUTHORIZED PRACTICE OF LAW. IS THAT CORRECT? THAT THAT HAS NOT BEEN HAPPENING , OTHER THAN THE ONE CASE INVOLVING MR . HAPARA PAPORT?

NO , YOUR HONOR , IN 1997 , THIS COURT UNDERTOOK TO REVIEW AN ADVISORY DECISION BY THE UPL COMMITTEE OF THE FLORIDA BAR , WHICH LOOKED AT WHETHER NONLAWYERS COULD REPRESENT INDIVIDUALS IN SECURITIES ARBITRATIONS . SEVEN YEARS AGO, THE COURTS SAID THAT WAS NOT PERMITTED.

BUT I GUESS IN THE INTERIM , THERE HASN'T BEEN ANY RULE IN PLACE, BUT YOU SAY THE BAR KNOWS THAT THIS HAS JUST BEEN HAPPENING?

NO , YOUR HONOR , THERE IS A RULE IN PLACE , AND THAT RULE IS , WHAT IS DEFINED AS THE UNLICENSED PRACTICE OF LAW OR THE UNAUTHORIZED PRACTICE OF LAW.

HAS THE BAR BEEN PROSECUTING LAWYERS THAT THEY KNOW HAVE BEEN CONDUCTING OR DEFENDING OR PROSECUTING ARBITRATIONS FOR THE UNAUTHORIZED PRACTICE OF LAW?

THE BAR INVESTIGATES , UPON THE FILING OF A COMPLAINT, AND IF A COMPLAINT IS FILED , THE BAR WILL TAKE ACTION TO GET THEM TO STOP. IF THEY DON'T , THEN THE BAR WILL FILE A PETITION WITH THIS COURT SEEKING INJUNCTIVE RELIEF.

NOW, THE DISCIPLINARY PART OF THIS , WOULD NOT JUST PERTAIN TO LAWYERS ENGAGED IN ARBITRATIONS , BUT WOULD THIS, ALSO, BE A WAY THAT THE BAR WOULD MONITOR WHO IS PRACTICING IN COURTS OF LAW AND BEING ADMITTED PRO HAC VICE?

YES, YOUR HONOR, BECAUSE IN BOTH ARBITRATIONS AS WELL AS IN COURT PROCEEDINGS, A NOTICE OR A COPY OF THE NOTICE A COURT PROCEEDING, HAS GOT TO BE FILED WITH THE FLORIDA BAR, SO THE FLORIDA BAR STANDS IN THE BEST POSITION, THROUGH THE DELEGATION OF THAT POWER TO THE BAR BY THIS COURT, TO MONITOR WHAT LAWYERS ARE DOING WITHIN THE STATE OF FLORIDA.

THE QUESTION THAT I COME BACK TO.

YES.

IS, BY THIS FILING WITH THE FLORIDA BAR , IS THE , IS THE SOUTH CAROLINA LAWYER THAT FILES WITH THE FLORIDA BAR, SUBMITTING TO THE FLORIDA BAR DISCIPLINARY PROCESS.

ABSOLUTELY.

WELL, WHAT SAYS THAT ?

THE FACT THAT THE LAWYER IS PRACTICING LAW IN THE STATE OF FLORIDA , SUBJECTS HIMSELF TO THE ARTICLE V POWERS OF THIS COURT.

IS THERE SOME , IS THAT PART OF THE NOTICE THAT IS FILED, THAT I AM SUBMITTING MYSELF IN AND AGREE TO THE DISCIPLINARY PROCEDURES OF THE FLORIDA BAR ?

YOUR HONOR , WE ALREADY HAVE TWO EXISTING RULES , RULE 3-4 .1 AND 3 -4.1 , WHICH DEALS WITH OUT-OF -STATE LAWYERS WHO COME TO THE STATE AND ENGAGE IN THE PRACTICE OF LAW.

I THINK THE ANSWER, I WAS JUST LOOKING AT ONE OF THE FORMS THAT SAYS MOVANT HAS READ THE APPLICABLE RULES AND CERTIFIES IT COMPLIES AND THEY CONSENT TO THE JURISDICTION OF THE COURTS AND THE BAR OF THE STATE OF FLORIDA.

THAT IS CORRECT. WE ARE TRYING TO STANDARDIZE.

IS THAT, BOTH, FOR THE LAWYER THAT IS APPEARING IN COURT , AS WELL AS THE AS WELL AS THE LAWYER WHO IS APPEARING IN AN ARBITRATION?

YES, MA'AM. IT STANDARDIZES THE REQUIREMENTS ALREADY IN PLACE , UNDER THE RULES OF JUDICIAL ADMINISTRATION AND ITS COMPLETION IN RULES OF LAWYER REGULATION, TO REQUIRE, BOTH, AN ARBITRATION , WHAT IS ALREADY REQUIRED IN PRO HAC VICE ADMISSION .

WE WANT TO BE CLEAR ABOUT WHAT IS GOING ON IN OTHER STATES. YOU HAVE MADE AND BEEN VERY CANDID THAT , WHEN IT COMES TO INTERNATIONAL ARBITRATIONS, THAT THIS IS SORT OF, FLORIDA IS THE SITE OF THE ARBITRATION. THERE IS NO PARTICULAR KNOWLEDGE OF FLORIDA LAW, AND THOSE ARE GOING TO BE EXEMPTED FROM THIS RULE , CORRECT? INTERNATIONAL ARBITRATION.

YES, YOUR HONOR, FOR A NUMBER OF DIFFERENT REASONS.

I THINK THOSE HAVE BEEN SET OUT. NOW, IF AN ARBITRATION , I NOTICE THAT YOU HAVE NOT ONLY LIMITED THE ARBITRATIONS TO THREE A YEAR , BUT YOU , THE RULE SAYS THAT THERE HAS TO BE A NEXUS BETWEEN THERE, IS A NEXUS REQUIREMENT THAT, IS THAT IT CAN'T JUST HAVE BEEN FLORIDA ARBITRATIONS. IT HAS TO SOMEHOW HAVE RELATED TO SOMETHING IN THE LAWYER'S HOME JURISDICTION. IS THAT CORRECT? THERE IS A NEXUS REQUIREMENT?

THE NEXUS REQUIREMENT IS AS BROAD TO INCLUDE THAT , IF A LAWYER IS PRACTICING IN HIS AREA OF PRACTICE , THAT IS SUFFICIENT .

AND THAT IS JUST, THEY CERTIFY THAT. BECAUSE THERE IS NO , IN AN ARBITRATION, THERE IS , ARE YOU GOING TO HAVE , IS IT ANTICIPATED THAT THE ARBITRATION PANEL WILL EITHER AGREE TO THAT LAWYER'S ADMISSION OR NOT ?

NO, YOUR HONOR. IT IS NOT ANTICIPATED . IN FACT , THE SRO'S AND ALL OF THE ABA AND OTHER ARBITRATION ORGANIZATIONS , DON'T DO ANYTHING IN THE CERTIFICATION PROCESS. WE DON'T ASK THEM TO UNDERTAKE THAT DUTY. IT IS JUST THAT THE FLORIDA BAR WANTS TO HAVE CONTROL OVER A PRACTICE THAT IS GOING , IS ONGOING , BUT WE DON'T HAVE THE ABILITY OF GOING OUT AND ASKING ALL THESE ARBITRATION ASSOCIATIONS, TELL US WHAT LAWYERS ARE COMING IN , AND , FOR INSTANCE, THEY HAVE NO REASON TO RESPOND. SO WHAT WE WANT TO DO IS WE WANT TO CREATE CONTROL THAT WE CAN MONITOR.

DOES THE BAR SEE A DIFFERENCE BETWEEN LAWYERS THAT ARE ENGAGING IN AN ARBITRATION, AS OPPOSED TO LAWYERS THAT ARE ENGAGING IN A COURT PROCEEDING ? UNDER THIS RULE , THEY WOULD, BOTH , BE ESSENTIALLY TREATED THE SAME WAY .

TREATED THE SAME WAY , AND THERE IS NO DIFFERENCE.

IS THERE A MOVE AF TER ANOTHER, AND JUSTICE - - A MOVE AF OOT , AND JUSTICE WELLS WAS MENTIONING THE CONFERENCE OF CH IEF JUSTICES , BUT IS THERE A MOVE ACROSS THE COUNTRY, YOU WERE STARTING TO T ALK ABOUT WHERE WE HAD COME FR OM IN LAWYER REGULATION AND WHERE WE A RETODAY, TO REALLY SAY THAT , UNDER CERTAIN CIRCUMSTANCES , WHY , IF A LAWYER IS CERTIFIED , I KNOW THIS IS PROBABLY, IN A , I MEAN , WHY , LICENSED TO PRACTICE IN A GIVEN STATE, AND THAT STATE HAS ETHICAL STANDARDS THAT ARE AS HIGH AS FLORIDA , WHY THIS ARBITRARY LI MITATION OF THREE PER YEAR , AND ESPECIALLY WHEN , IF IT IS A COURT PROCEE DING, THE THREE PER YEAR CAN BE , IT COULD BE A TRIAL THAT GO ES ON FOR SEVERAL , IT C OULD BE AN ONGOING CASE, AND SO THE LAWYER IS ESSENTIALLY , THIS ONE CASE, IT IS A , ON AN ONG OING BASIS, BUT T HAT LAWYER HAS EXPE RTISE I N THAT AREA, AND HOW ARE T HEFLORIDA CITI ZENS HARMED B Y SOMETHING THAT IS MORE EXPANSIVE?

EXP ANSIVE? AND I GUESS WE ARE NOT REALLY TA LKING ABOUT COURT LAWYERS. THIS SEEMS TO BE ON THE ARBITRATION SIDE OF WHER E IS THE HARM SO TO SPEA K IN THAT , BEING MORE LIBERALIZED?

YOUR HONOR, THIS COURT HAS TAK EN A LONG STANDING POSITION ON THE ADMISSION S PROCESS THAT, LAWYERS WHO SEEK TO PRACTICE ON A PERMANENT NOT A TEMPORARYBASIS, SHO UL D BE FIT . CHARACTERIZE IT THAT FLORIDA IS GOAD STANDARD. WHILE I COULD D RA W UPON THE COURT'S DE CISIONS RESPECTTHERE WERE SE VERAL CASES, MAYBE A NUMBER, WHERE LAWYERS HAD BEEN A MEMBER OF THE BAR OF AN OTHER STATE FOR MANY YEARS, HAD BEEN ABLE TO MASTER THE FLORIDA BAR E XAM , SHOWED A PROFICIENCY FOR FLORIDA LAW BUT WERE UNA BLE TO GAIN ADMISSION BECAUSE OF SOME CHAR ACTER OR FIT NESS OR BOTH, ISSUE.

DOESN'T THAT HAP PEN, EVEN IF WE ARE TALKING ABOUT THREE PER YEAR. THAT CAN BE A SUBSTANTIAL PRESENCE IN THE STATE OF FLORIDA. YOU ARE NOT PROPOSING , THESE AREN'T GOING TO BE SCREENED BY THE BOARD OF BAR EXAMINERS FOR CHARACTER AND FITNESS?

NO , YOUR HONOR. IT IS JUST THAT

I KNOW WHAT YOU A RESAYING, BUT WHAT I AM THINKING IS THE PRACTICAL ISSUE ABOUT HOW THIS WOR KS IN THE REAL WO RLD OF, SAY , SECURITIES LITIGATION , AND WHETHER , YOU ARE NOT LIMITING THE NUMBER OF D AYS BUT THIS ARBITRARY , I SHOULDN'T SAY ARBITRARY BUT THREE PER YEAR , AND YOU ARE ALSO PROPOSING TO LIMIT THE DISCRETION OF THE JUDGE TO NOT ALLOW MORE THAN THAT.

CORR ECT. THE NU MBER THREE CAME FROM THE PRESENT R ULE.IT IS NOT A NUMBER WE CAME UP. IT IS NOT ARBITRARY. IN FACT , UNDER THE PRE SENTR ULE THERE, IS A PRESUMPTION THAT, IN EXCESS OF THREE WITHIN A MOVING 365-DAY PERIOD, NOT WITHIN A CALENDAR YEAR, IS NOT, IS THE GENERAL PRACTICE OF LAW. IT IS NOT A TEMPORARY PRACTICE. SO WE ARE SI MPLY FOLLOWINGWHAT THIS COURT HAS ALR EADY APPROVED, BUT WHAT WE ARE DOING IS TAKING AWAY T HETRIAL COURT'S DISC RETION BECAUSE TRIAL COURT JU DGES ARE NOT NECESSARILY IN THE BEST POSITION OF BEING ABLE TO MONITO R WHAT LAWYERS ARE DOING AROUND THE STATE. THE FLORIDA BAR ISN'T INVOLVED IN THAT PROCESS. PLUS IT SEEMS TO BE INCONSISTENT AND SOMETIMES UNFAIR, THAT IF YOU GO TO A COURT IN JACKSONV ILLE , FLORIDA, AND YOU ARE REPRESENTING A DEFE NDANT IN A, IN TOBA CCO LITI GATION THAT YOU MAY HAVE THE ABILITY OF REPRESENTING THAT DEFENDANT IN 100 CASES , BUT IF A LAWYER GOES DOWN TO MIAMI , OR ST. PETERSBURG AND THEY SEEK TO GAIN ADMISSION FOR THE FI FTH OR SI XTH OR SEVENTH TIME IN A 365 -DAYPERIOD, THAT JUDGE COULD SAY, NO , YOU ARE NOT GOI NG TO GET THAT RIG HT BEFORE ME. SO WHAT WE DO I S TRY TO CREATE PREDICT ABIL IT Y , CONSISTENCY

AND FAIRNESS, AND THAT IS WHY TAKING THE COURT'S THREE-TIME LIMITATION IN A 365-DAY, WE SIMPLY REMOVE THE TRIAL COURT'S DISCRETION.

WOULD YOU EXPLAIN THE BAR'S POSITION WITH REGARD TO THESE UNRELATED MATTERS. I MEAN, FOR EXAMPLE, CERTAIN PRODUCTS, COMPANIES THAT MAKE CERTAIN PRODUCTS, MAY DEVELOP COUNSEL THAT WORKS ON THOSE KINDS OF CASES, AND FOR EXAMPLE IN FLORIDA, IF YOU HAVE A LADDER, ONE KIND OF LADDER GOES BAD IN MIAMI, ONE IN TAMPA, JACKSONVILLE, TALLAHASSEE, ARE THOSE RELATED? ARE THOSE UNRELATED? WHAT IS, SO WE HAVE SOME GUIDELINE, BECAUSE THAT, REALLY, DEVELOPS INTO, REALLY, THE GENERAL PRACTICE OF LAW WITHIN THE STATE.

THAT'S CORRECT, YOUR HONOR, AND THAT IS WHY WE TOOK THAT OUT, BECAUSE IT WAS AMBIGUOUS. IT WAS SUBJECT TO BROAD INTERPRETATION, AND WE TRIED TO ENSURE THAT THAT NOT OCCUR, AND I THINK THE ARGUMENT FROM THE PROPONENTS IS, WELL, GOSH, IF WE HAVE A LAWYER WHO IS REPRESENTING A DEFENDANT IN ALL THEIR LADDER CASES IN THE STATE OF FLORIDA AND THEY HAVE GOT 100 OF THEM AND SHOULDN'T WE BE ALLOWED TO HIRE OUR LAWYER? SURE. BUT WE HAVE AN ADMISSION PROCESS IN THE STATE, AND WHEN IT BECOMES FROM TEMPORARY TO REGULAR PRACTICE, THE COURT HAS AN INTEREST IN ENSURING THAT THE PUBLIC IS PROTECTED, THAT THAT LAWYER GAINED ADMISSION. AS A BAR EXAMINER, I DON'T KNOW WHY ANYBODY WOULD NOT WANT TO TAKE THE BAR EXAM. IT IS A GREAT PROCESS. CERTAINLY VERY THOROUGH, AND I WOULDN'T WANT TO TAKE THE BAR EXAM AGAIN, BUT YOU KNOW, THAT IS THE OBLIGATION HERE, IN THE STATE, THAT IF YOU WANT TO PRACTICE ON A PERMANENT OR REGULAR BASIS, THAT YOU TAKE THAT BAR EXAM.

AS WE LOOK AT THIS ENTIRE AREA, AND I KNOW YOU HAVE BEEN HEAVILY INVOLVED WITH THE BOARD OF BAR EXAMINERS, THERE SEEMS TO BE ALSO, A NATIONWIDE TREND TO DO AWAY WITH BAR EXAMS. IS THAT THE PUSH FROM THE EDUCATION OR THE ACADEMIC COMMUNITY, THAT THEY HAVE NO RESPONSIBILITY FOR CHARACTER AND FITNESS, AND ALL WE ARE GOING TO DO IS EDUCATE THEM AND WHY DO YOU NEED TO DO A BAR EXAM BECAUSE WE DO A GREAT JOB. WHAT IS THE BAR'S THOUGHTS WITH REGARD TO THAT?

WELL, I THINK CERTAINLY THE BAR EXAMINERS HAVE SHARED THAT, AND THE BAR'S POSITION WOULD BE THAT, DESPITE THE ADVOCACY POSITION OF THE LAW SCHOOLS THAT THEY DO A FINE JOB OF EDUCATING THEIR STUDENTS, IT IS NOT AUTOMATIC AS WE KNOW FROM THE PASS/FAIL LINE, THAT THOSE LAWYERS WHO GAINED, THOSE LAW STUDENTS WHO TAKE THE EXAM PASS, PLUS THEIR CHARACTER AND FITNESS ISSUES THAT LAW SCHOOLS DO NOT SCRUTINIZE. THEY HAVE AN APPLICATION. YOU CAN CHECK IF YOU HAVE HAD DISCIPLINARY ISSUES, BUT THEY DON'T GO INTO THE RIGOROUS EXAMINATION AFTER STUDENT'S CHARACTER AND FITNESS. WE REMAIN, I THINK, WE STILL NEED A BAR ADMISSION PROCESS. WE STILL NEED A TESTING OF THE PROFICIENCY OF LAWYERS. IN FACT, IN THIS COURT'S MOST RECENT OPINION WHEN IT LOOKED AT WHETHER TO INCREASE THE PASS/FAIL LINE, THE COURT RECOGNIZED THE CONTINUED RELEVANCE AND IMPORTANCE OF A NEED FOR THE ADMISSION PROCESS AND THE BAR

YOUR TIME IS ABOUT UP, BUT IN RESPONSE TO YOUR COMMENT ABOUT YOU DON'T KNOW ANY REASON WHY ANYBODY WOULDN'T WANT TO TAKE THE BAR EXAM, MY DAUGHTER IS GOING TO TAKE IT IN TWO WEEKS, AND I WILL GIVE YOU HER PHONE NUMBER.

WELL, AS A PRACTICAL MATTER, ON THE 250 DOLLARS THAT YOU WOULD HAVE TO PAY, ARE YOU TALKING ABOUT FOR EACH CASE OR IS THAT FOR THE 365-DAY PERIOD? WHAT IS THAT?

JUSTICE QUINCE, IT IS, BOTH, FOR, IT IS FOR EACH APPEARANCE, EACH CASE OR EACH ARBITRATION.

SO IF YOU ARE TALKING ABOUT THREE, YOU ARE TALKING ABOUT SOMEONE PAYING \$750 FOR

THAT 365 -DAY PERI OD, TO APPEAR IN THE STATE OF FLORIDA , AND DOES THAT SEEM SOMEWHAT EXCESSIVE? I ME AN, THOSE WHO ARE ACTUAL MEMBERS OF THE BAR , WHAT ARE OUR DUES NOW , \$290 A YEAR?

\$2 65.

\$265 A Y EAR.

WELL, THAT PRESUPPOSES THAT THERE IS GOING TO B E SOMEBODY AP PEAR IN G T HREETIMES IN 365 DA YS , BUT REMEMBER THERE ARE SOME ISSUES THAT NEED TO BE BALANCED. ONE , IS WE HAVE A REGULATORY SYSTEM THAT NEEDS TO BE FUNDED, AND , TWO , IF SOMEBODY IS PRACTICING O R COMING DOWN ON THREE OCCASIONS , WHAT THEY ARE NOT HAVING TO DO THAT LAWYERS HERE IN THE STATE HAVE TO D O IS WE HAVE TO GO THROUGH AN ADM ISSION PROCESS WHICH IS , ALSO, FEE-DRIVEN , OR THER E IS A IMPO SITION OF A FEE THERE. SOMETIMES IT CAN BE IN EXCESS OF \$250 , DEPENDING UPON HOW QUIC KLY YOU REGISTER IN THE BAR ADMISSION PROCESS. SO WE LOO KED AT, IN TERMS OF THE AMOUNT OF M O N E Y WE HAD TO DEDI CATE AS THE BAR , TO THE DISCIPLI NARY SYST EM, WE LOOKED AT THE EXPANSION OF OUR DISCIP LINARY SYSTEM, BECAUSE OF THE INCREASED DISCIPLINARY RESPONSIBILI TY THAT WE WOULD HAVE TO ME ET. WE LOOKED AT THE NEED FOR THE CLIENT SEC URITY F UND,WHICH WOULD HAVE TO BE FUNDED, AND THEN, ALS O, W E LOOKED AT ALL THE O THERSTATES. WE HAVE AN APPENDIX G , I BELIEVE IT IS APPE NDIX G , AT LEAST AT THAT PO INT IN TIME WHAT ALL THE STATES ARE DOING, AND FOR STATES OF OUR SIZE , WE LOOKED FOR A NUMBER WHICH OTHER STATES HAD FOLLOWED.

AND HAS THE BAR LOOKED AT THIS IN RELATIONSHIP TO THE RULE THAT WAS PASSED BY THE, THE STATUTE THAT WAS PAS SED BY THE LEGISLAT URE , WHICH REQUIRES PEOPLE APPEAR ING PRO HAC VI CE , TO PAY A \$1 0 E 0 FEE?

A \$100 FEE?

YOUR HONOR , WE LOOKED AT THIS BEFORE THE LEGISLATURE PASSED THAT \$100 F EE. IT IS , THE \$100 AS I UNDERSTAND IT , IS PA ID TO THE CLER K'S OF FICE AND IT GOES TO THE G E NERAL RE VENUE FUND, SO WHILE IT MA Y BE AN OBLIGATION OF A LAWYER SEEK ING TO PRACTICE PRO HAC V ICE , IT DOESN'T COVER ARBITRATIONS , BUT IT IS NOT MONEY THAT GOES IN TO THE SYSTEM TO PAY FOR THE REGULATION OF LAWYERS AS WELL AS CLIENTS OF SECURITY FUNDS , SO I AM AWARE OF IT AS YOU ARE, BUT WE DIDN'T LOOK AT IT , AND IT WOULD NOT , TO DAY, WE WOULD CONTINUE TO UR GE \$25 0.

JUSTICE BELL HAS A QUESTION.

JUST REAL QUICK, ON THE TRIGGERING POINT FOR APPEARANCES IN ARBITRATION , LET'S S AY YOU HAVE SOM EONE WHO REPRESENTS ON A ROUT INE BASIS, A SECU RITY COMPANY , AND THEY HAVE STANDARD PROVISIONS WHERE EVERYTHING HAS TO BE ARBITRATED , MAY BE ARBITRATED OUTS IDE THE STATE . WOULD YOU RESPOND TO THE REQUEST BY MR . CROCHELL THAT IT SHOULD BE A DIFFERENT TRIGGERING POINT FOR THE COUNTING OF THE ARBITRATIONS , FOR EXAM PLE THE FI LING OF A VERIFIED STATEMENT FOR LE AVE TO AMEND OR EVEN ACTUAL ATTENDANCE AS AN ARBITRATION. RIGHT NOW THE TRIGGERING POINT IS FILING A DEM AND FOR ARBITRATION.MY QUESTION IS , SOMEBODY FILES A COMP LAINT HERE IN FLAT. DEMAND IS FIL ED. NOTHING ELSE IS DONE IN THESTATE OF FLORIDA. IT IS JUST AN AUTOMATI C, MAYBE THE COURT HAS NO FURTHER INVOLVEMENT. BECAUSE EVERYBODY AG REES THAT THERE IS A BIN DING ARBITRATION AGREEMENT, AND NOTHING ELSE IS DONE BY THE OUT-OF-STATE ATTORNEY IN FLORIDA . UNDER THE RULE A S IT STAN DS NOW , THAT WOULD COUNT AS ONE APPEARAN CE.

CORRECT, YOUR HONOR.

CAN YOU SPEAK TO THAT REQUEST, THAT THERE BE A DIFFERENT TRIGGERING POINT . THAT THERE IS MORE SUBSTANCE TO THE ACTUAL APPEARANCE NECESSARY TO PROTECT THE PUBLIC IN FLORIDA.

I AM NOT SURE THAT THERE IS. I DON'T BELIEVE THERE IS. I THINK WHAT WE NEED TO DO IS HAVE STANDARDIZATION OF ANY TYPE OF RULE, AND TO CREATE SOMETHING DIFFERENT FOR ARBITRATION , AS OPPOSED TO THE ACTUAL COMMENTARY OF LITIGATION, I THINK , WOULD NOT SERVE US WELL. I THINK THE DEMAND FOR ARBITRATION IS THE SAME AS THE FILING OF A COMPLAINT. BOTH SEEK DEMANDS FOR RELIEF. THE WAY THOSE PROCESSES ARE, THEN, PER SUED, ARE FAIRLY SIMILAR, IN RESPECT TO RESPONSES, DISCOVERY, ALTHOUGH IT IS GREATER OUTSIDE OF ARBITRATION THAN IT IS , BUT, BOTH , SEEK AN ULTIMATE CONCLUSION THROUGH AN ARBITER. I THINK THEY ARE IDENTICAL IN CONCEPT. I WOULD NOT URGE THE COURT TO ADOPT DIFFERENT TRIGGERING POINT AND I THINK IT IS A RED HERRING . I THINK IT IS FINE THE WAY WE PROPOSE .

JUSTICE ANSTEAD HAS A QUESTION. YOU SEE, WE BECAME MUCH MORE INTERESTED IN THIS WHOLE SUBJECT.

WELL , YOUR HONOR, I APPRECIATE THAT, PARTICULARLY WITH THOSE OPENING COMMENTS THAT SOME MIGHT NOT FIND IT INTERESTING .

CHIEF JUSTICE: ESPECIALLY AS YOU STARTED IN THE HISTORY BACK TO THE 1700 S, IT GOT OUR ATTENTION.

THANK YOU, YOUR HONOR.

AS LONG AS WE ARE ON YOUR TICKET AND SPENDING YOUR TIME, HOWEVER IT GOES , LET ME PLAY THE DEVIL'S ADVOCATE A LITTLE BIT , ABOUT THIS THREE-APPEARANCE LIMITATION. I REALIZE THAT , TO A GREAT EXTENT, WE ARE TAKING BABY STEPS NOW , AND IF WE HAD A TIME MACHINE, THAT THE WORLD WOULD PROBABLY LOOK A LOT DIFFERENT IN TEN , TWENTY , THIRTY YEARS , IN TERMS OF THIS MULTIJURISDICTIONAL PRACTICE . CLEARLY IN PLACES LIKE GERMANY AND THE U. K. AND ALL OF THOSE PLACES, YOU DON'T HAVE TO HAVE A TICKET, YOU KNOW, IN A REGIONAL AREA , AND THAT THAT LIMITS YOU THERE . IF YOU HAVE YOUR TICKET IN GERMANY, YOU CAN PRACTICE IN BERLIN AND YOU CAN PRACTICE IN MÜNICH , AND SO ON AND SO ON, AND I AM WONDERING WHETHER OR NOT , PERHAPS, WE ARE IGNORING REALITY OUT THERE , AND, ALSO, TO SOME EXTENT, PERHAPS , BITING OURSELVES OFF TO SPITE OUR FACE , WITH THIS THREE-APPEARANCE LIMITATION. JUSTICE LEWIS USED THE , YOU KNOW, PRODUCTS LIABILITY LITIGATION. CLEARLY , IF A MANUFACTURER HAS DEVELOPED A LEGAL TEAM THAT HAS THE EXPERTISE AND THE MOST KNOWLEDGE ABOUT THAT KIND OF LITIGATION , AREN'T WE, REALLY , DEPRIVING FLORIDA JUDGES AND JURIES, THEN, OF THE BEST LEGAL TALENT AVAILABLE TO RESOLVE THAT PARTICULAR ISSUE ? SIMILARLY, WITH REFERENCE TO PEOPLE THAT HAVE ALREADY INDICATED HAVE ADVISED ON THE PART OF INJURED PEOPLE IN CLASS ACTIONS OR HOWEVER THAT MIGHT ARISE , AND IN REALITY, WE ALL KNOW THAT, WHOEVER MAY BE IN THE COURTROOM, ALSO, IS GOING TO BE CONSULTING HEAVILY , WITH THIS OTHER LEGAL TEAM , THAT HAS BEEN DEVELOPED WITH REFERENCE TO THAT , AND SO AREN'T WE REALLY DEPRIVING FLORIDA JURIES AND FLORIDA JUDGES OF THE BEST LEGAL TALENT AVAILABLE , AND IF WE HAVE THESE PROTECTIONS SUBMITTED IN NOW, WITH REFERENCE TO BEING SUBMITTED TO FLORIDA'S JURISDICTION, WHY SHOULDN'T WE HAVE , INSTEAD OF TAKING, REALLY, A TINY TINY STEP HERE , WHY WE SHOULDN'T BE MORE EXPANSIVE ? AREN'T WE IGNORING REALITY , AND AREN'T WE DEPRIVING OURSELVES, REALLY , OF THE BEST ADVOCACY IN ORDER TO RESOLVE THESE IMPORTANT ISSUES?

WELL , YOUR HONOR, WHAT I THINK WE ARE DOING IS ACTUALLY MEETING REALITY. I WILL TAKE IT , WE ARE TAKING A BABY STEP , PERHAPS , BUT WE ARE EXPANDING THE PRACTICE TO

ALLOW SOME OF THAT, TO THE EXTENT THAT YOU ADVOCATE OR NOT ADVOCATE, BUT YOU MENTION IN YOUR DEVIL'S ADVOCACY POSITION, THAT IF ONE OF THE AMERICAN TOBACCO COMPANIES HAS A TEAM OF LAWYERS THAT HAVE GREAT EXPERTISE IN REPRESENTING THAT CLIENT, IN FACT THAT DOES OCCUR, ANECDOTALLY, MEMBERS OF THE COMMITTEE HAD OCCASIONS WHERE THEY HAD CASES AGAINST THE SAME LAWYERS, OVER AND OVER AND OVER AGAIN, EVEN THOUGH THEY WEREN'T ADMITTED, BUT WE DON'T HAVE YET, A NATIONAL BAR ADMISSION PROCESS. THE STATE OF FLORIDA STILL HAS THE INTEREST OF THE PUBLIC TO PROTECT, AND IF THAT SOPHISTICATED CLIENT EMPLOYEES THAT LEGAL TEAM OVER AND OVER AND OVER AGAIN, AT SOME POINT, OUR INTEREST AND THE INTEREST OF THE PUBLIC ARE SERVED, BY MAKING THOSE LAWYERS TAKE THE BAR EXAM. THE CHARACTER AND FITNESS ISSUES ARE NOT MET IN A PRO HAC VICE ADMISSION, IF IT IS OPEN ENDED AND LEFT TO THE DISCRETION OF THE COURT, AND WELL IT MAY BE THAT THOSE LAWYERS ARE PROFICIENT IN CONSULTATION WITH LAWYERS HERE IN THE STATE, ABOUT THE NUANCES OF FLORIDA LAW, HOW ARE WE LOOKING AT OTHER ISSUES, SUCH AS MENTAL HEALTH, PAST DISCIPLINARY PROBLEMS, CANDOR ISSUES THAT MAY LURK IN THEIR PAST THAT MAY POP-UP BEFORE A TRIAL JUDGE AND NOBODY WILL EVER KNOW. ADDICTIVE BEHAVIORS. NONE OF THAT, EVER, IS SCRUTINIZED BY THE TRIAL COURT.

BUT YOU SEE THERE, IF THERE ARE THREE, THAT IS WHAT I WAS SAYING, YOU CAN BE IN FOR THREE, AND THREE COULD TAKE THE WHOLE YEAR, WE ARE STILL, IT IS STILL THE SAME ISSUE, UNLESS YOU ARE GOING TO SCREEN FOR THESE CHARACTER AND FITNESS ISSUES AS PART OF THE \$250, WE ARE STILL, WE STILL HAVE THAT OUT THERE. I THINK YOUR POINT ABOUT THERE NOT YET BEING A NATIONAL BAR EXAMINATION PROCESS, MAY, REALLY, BE WHERE THIS COUNTRY NEEDS TO BE GOING. ESPECIALLY WITH THE LAW FIRMS THAT HAVE OFFICES IN EVERY STATE. HOW MUCH TIME, HOW MUCH DID WE USE OF

CHIEF JUSTICE: ARE THERE ANY OTHER QUESTIONS?

WOULD YOU TAKE THE OPPOSITE SIDE OF THAT DEVIL'S ADVOCACY AS WELL. IF WE HAVE A CALIFORNIA LAW FIRM THAT SPECIALIZED IN MEDICAL MALPRACTICE, SHOULD THEY BE ALLOWED TO COME INTO THE STATE AND REPRESENT 1,000, 2000 DIFFERENT INJURED PATIENTS AGAINST THE HOSPITALS AND DOCTORS AROUND THE STATE? WOULD THAT BE ANY DIFFERENT?

NO. IT WOULDN'T BE ANY DIFFERENT. IN FACT, I HAVE A NATIONAL PRACTICE. I DO CONSUMER CLASS LITIGATION. I GO AROUND THE COUNTRY, AND I HAVE TO FACE THE SAME LIMITATIONS THAT I, THAT FACE ME HERE. I HAVE TO BE COGNIZANT OF THAT, BUT AT SOME POINT IF I APPEAR IN CALIFORNIA ENOUGH, I AM GOING TO BE TAKING THE CALIFORNIA BAR EXAM. THAT IS THE REALITY, AND IT ISN'T, THE NATIONAL CONFERENCE OF BAR EXAMINERS IS LOOKING AT ISSUES RELATING TO NATIONAL CERTIFICATION. THE NATIONALIZATION OF CHARACTER AND FITNESS ISSUES, BUT WE ARE NOT THERE YET, AND THE THREE TIMES THAT I KNOW JUSTICE PARIENTE, BOTHERS YOU, THIS ISN'T PERFECT. AS A BAR EXAMINER, FORMER BAR EXAMINER, I WOULD LIKE TO HAVE SOME CHARACTER AND FITNESS EXAMINATION, BUT I AM NOT PROPOSING THAT ON BEHALF THE FLORIDA BAR. THE FLORIDA BAR IS NOT PROPOSING THAT. WE ARE SIMPLY TAKING WHAT IS ALREADY IN THE RULE AND TAKING AWAY THE COURT'S DISCRETION AND SAYING THAT, IF IT IS MORE THAN THREE TIMES, TAKE THE BAR.

JUSTICE CANTERO.

BEFORE YOU SIT DOWN, I WOULD LIKE YOU TO ADDRESS THE DISTINCTION BETWEEN THE DOMESTIC ARBITRATIONS AND INTERNATIONAL ARBITRATIONS, BECAUSE I AM CONCERNED THAT, ABOUT THE EQUAL PROTECTION ISSUES ON THAT. I AM NOT, I THINK THAT THE JUSTIFICATION FOR THAT IS THAT, WELL, WE WANT TO ATTRACT INTERNATIONAL ARBITRATION TO SAY FLORIDA. I AM NOT SURE THAT THAT IS A SUFFICIENT JUSTIFICATION FOR EQUAL PROTECTION PURPOSES. I THOUGHT THERE NEEDS TO BE SOME SUBSTANTIVE DIFFERENCE

BETWEEN INTERNATIONAL ARBITRATIONS AND DOMESTIC, THAT WOULD JUSTIFY A DISTINCTION.

I WILL SHARE WITH YOU A FEW COMMENTS, AND THEN I HAVE NEVER DONE THIS BEFORE, BUT MR. ASTIGARRAGA ASKED TO TAKE SOME TIME. BUT THERE ARE SOME SUBSTANTIVE ISSUES. INTERNATIONAL ARBITRATION FINDS ITS WAY INTO FLORIDA MERELY AS A CONVENIENCE. IT IS A GREAT PLACE TO APPEAR. THERE ARE A LOT OF FACILITIES TO FACILITATE INTERNATIONAL ARBITRATION. INTERNATIONAL ARBITRATION INVOLVES INTERNATIONAL LAW OR ITS APPLICATION OR THE LAWS OF FOREIGN COUNTRIES OR ITS APPLICATION. MANY TIMES, IT INVOLVES CITIZENS OF OTHER COUNTRIES AND NOT THE STATE OF FLORIDA. THERE ARE SUBSTANTIVE DIFFERENCES, WHICH FORM THE BASIS FOR AN EXEMPTION FOR INTERNATIONAL LAW, AS OPPOSED TO DOMESTIC ARBITRATION. THOSE ARE THE THREE SUBSTANTIVE DIFFERENCES, AND IF YOUR HONOR WOULD ALLOW ME, I WILL ASK MR. ASTIGARRAGA BECAUSE HE ASKED FOR THE TIME.

A LOT HAVE RESPONDED THAT WAY.

I DIDN'T KNOW THE ANSWER BECAUSE IT WAS CONCEDED TO ME, APPEARING BEFORE THIS PARTICULAR COURT.

ONE OTHER QUESTION THAT MAY BE ANSWERED AND MAYBE IN YOUR APPENDIX, WHERE WILL FLORIDA BE IF WE ADOPT THIS RULE? WHERE WILL WE BE, IN RELATIONSHIP TO THE LARGER STATES, YOU KNOW, NEW YORK, CALIFORNIA, IN TERMS OF, A REWE STILL BEING MUCH MORE RESTRICTIVE AND HOME TOWN, OR ARE WE GOING TO BE KEEPING PACE WITH THOSE OTHER STATES?

THREE STATES HAVE TODAY ADOPTED THE RULE WITH WHAT THE ABA PROPOSES IN ITS MODEL RULE AND ELEVEN STATES HAVE ADOPTED RULES SIMILAR TO THE ABA, WHICH IS WHAT WE ARE PROPOSING. THERE ARE SEVERAL PENDING BEFORE COURTS IN OTHER STATES. THERE ARE SEVEN IDENTICAL PROPOSALS TO WHAT THE ABA HAS PROPOSED, PENDING AT COURTS, SEVEN WHICH ARE SIMILAR PENDING, SO THERE ARE PRESENTLY 14 COURTS

THE ABA, THE DIFFERENCE BETWEEN YOUR PROPOSAL AND THE ABA PROPOSAL IS?

WELL, WE ALREADY HAVE A FOREIGN CONSULTANT RULE. THEY HAD ONE. WE ALREADY HAVE AN IN-HOUSE COUNSEL RULE. THEY PROPOSED ONE. SO WE REJECTED BOTH THOSE. AND

WERE YOU SATISFIED THAT OUR FOREIGN REGISTRATION IS, DID THEY GO THROUGH THE BAR? I THOUGHT THEY HAVE TO REGISTER IN OUR COURT OR SOMETHING.

THEY DO, YOUR HONOR.

THEY WILL FILE WITH THE BAR?

THEY FILE WITH THE BAR. THAT SYSTEM HAS WORKED EXTREMELY WELL. OBVIOUSLY AS PART OF OUR ANNUAL REVIEW, WE HAVE LOOKED AT THAT. WE HAVE LOOKED AT THE IN-HOUSE COUNSEL RULE, AND WE THOUGHT NO REASON TO CHANGE WHAT ISN'T BROKEN. WE, ALSO, HAVE PROPOSED TO THE COURT, I THINK, A NUMBER OF DIFFERENT FEE SCHEDULES FOR WHAT OVER STATES PROPOSED. THEY RANGE FROM A 25 DOLLARS TO \$ 550.

IS THERE ANY STATE THAT JUST TAKES THE POSITION THAT ARBITRATIONS ARE TO TALLY EXEMPT FROM THE REGULATORY PROCESS?

I DON'T BELIEVE THAT ANY DO. I DO KNOW THAT CALIFORNIA, WHICH HAS SPECIFICALLY LOOKED AT IT, PARTICULARLY AT THE CALIFORNIA SUPREME COURT LEVEL DOES LOOK AT

ARBITRATION AS SYNONYMOUS WITH IN-COURT LITIGATION.

WHAT ABOUT NEW YORK? DO YOU KNOW?

I DON'T KNOW, YOUR HONOR.

BUT AREN'T THERE A NUMBER OF STATES THAT DO NOT TREAT ARBITRATION AS THE PRACTICE OF LAW, IN TERMS OF REGULATION OF THE IR STATE ORGANIZATIONS?

I DON'T, OKAY, LET ME RESPOND TO IT THIS WAY. I GUESS THERE ARE SOME, YOUR HONOR, BUT THERE IS ALSO A LOT OF STATES THAT DON'T DO MUCH IN CONNECTION WITH TRYING TO POLICE THE UNLICENSED PRACTICE OF LAW. THE STATE OF FLORIDA, I THINK, AT ONE TIME, I BET YOU IT IS PROBABLY STILL THE CASE, HAD A BUDGET FOR UPL CUMULATIVELY BIGGER THAN ALL THE OTHER STATES COMBINED.

I UNDERSTAND THAT. I JUST WANT TO BE CLEAR. THE BAR IS AWARE THAT THERE ARE A LOT OF STATES THAT DON'T TREAT PRACTICE BEFORE ARBITRATION BOARDS AS THE PRACTICE OF LAW.

ONE OF THE GREAT THINGS ABOUT BEING A LAWYER IN THIS STATE AND HAVING SERVED ON THE BOARD OF BAR EXAMINERS AND THE BOARD OF GOVERNORS, IS WE ARE A TREND SETTER AS A BAR AND AS STATE.

I AM NOT TALKING ABOUT THE MERITS OF IT RIGHT NOW. I AM JUST TALKING ABOUT THE FACT THAT WE SHOULD BE AWARE.

YES. WE ARE BRINGING THEM INTO THE LIGHT, YOUR HONOR, AND WE THINK, IF THIS COURT ADOPTS OUR RULES PACKAGE, THAT THERE WILL BE A GROUP FOLLOWING US.

BUT THE ABA DOES SUGGEST OR RECOMMEND IN THEIR MODEL, PROPOSALS THAT ARBITRATION BE WITHIN OR NOT. THAT IS WHAT I WAS JUST

YES, YOUR HONOR. THAT IS PART OF THE MODEL PROPOSAL, AND WE ADOPTED THAT WITH SOME CHANGES, OBVIOUSLY, AS WE HAVE DISCUSSED HERE TODAY.

CHIEF JUSTICE: ANY? I THINK YOU ARE WELL INTO EVERYONE'S REBUTTAL TIME BUT YOU STILL HAVE ENOUGH TIME.

YOU ARE VERY GRACIOUS. THANK YOU SO MUCH.

CHIEF JUSTICE: THANK YOU. ALL RIGHT. NEXT IS MR. MAHER FOR THE BUSINESS LAW SECTION.

THANK, YOUR HONOR. MY NAME IS STEPHEN MAHER OF THE SHUTTS AND BONE FIRM IN MIAMI. WITH RESPECT TO YOUR COMMENTS THERE, DIFFERENCES BETWEEN YOUR PROPOSAL AND THE AMERICAN BAR ASSOCIATION APPROACH, AND I THINK THE FOCUS FOR US IS THIS THREE-ARBITRATION LIMITATION. WHEN HE CAME OUT WITH THE OLD RULE ON PRO HAC VICE, WHICH SAID THREE, AND THE AMERICAN BAR ASSOCIATION HAS NOT RECOMMENDED THREE, AND TO MY KNOWLEDGE NONE OF THE OTHER STATES HAVE ADOPTED THREE. THEY USE AN OTHER APPROACH. AS YOUR HONOR KNOWS, THE NEXUS APPROACH IS, IN FACT, AN ORGANIC LIMITATION ON PEOPLE COMING HERE, POACHING FOR CASES, WHICH I THINK IS WHAT THE BAR IS WORRIED BEFORE IS WORRIED ABOUT.

SO THE NEXUS TO THE CASE ITSELF AS OPPOSED TO THE EXPERTISE THAT THE LAWYER POSSESSES?

THE NEXUS WOULD SAY THAT SOMEBODY HAS TO BE FROM YOUR STATE, OR IN OTHER W

ORDSSOMEBODY, WHAT THEY ARE TRYING TO DO IS MAKE SURE PEOPLE DON'T SIT IN NEW YORK AND TRY TO GET CASES FROM FLORIDA AND HANDLE CASES I N FLORIDA, BUT IF YOU ARE A NEW YORK LAWYER AND YOU H AVE A CLIENT WHO HAS A PROB LEM , AND THEY TR UST YOU , YOU ARE THE LOGI CAL PERSON, I F YOU HAVE THAT EXPERTISE TO DO THAT CASE.

THAT IS A MEANINGFUL LIMITATION.

THAT IS A MEANINGFUL LIMITATION, ACCORDING TO THE ABA. LET ME EXPLAIN , THIS WHOLE PROBLEM WAS A PRO BLEM FOR MANY YEARS. YOUR HONORS INDICA TED BENI GN NEGLECT AS BEING, PERHA PS , THE SITUATION. THAT IS ABSOLUTELY TRUE . PROFESSOR WOLFRAM , WHO W ROTE WOLFRAM ON ETHICS , WROT E AN ARTICLE IN 19 95 , CALLED SNEAKING AROUND THE L EGALPROFESSION. HE WAS WELL AWARE THAT THERE IS LOTS OF, QUOTE , UNETHICAL CONDUCT , GOING ON , END QUOTE , GOING ON , AND WH Y? BECAUSE THE MODE RN PRACTICE OF LAW REQUIRED IT . WE HAVE AN OLD, M AYBE NOT 1700S BUT CERTA INLY 18 00S SYSTEM OF LOCAL CONTROL AND ENFORCEMENT OF UNAUTHORIZED PRACTICE, AND WE HAVE A MODERN LAW PRACTICE , SO PEOPLE WERE GOIN G OUT A NDTHEY WERE JUST DOING THINGS THAT WERE, QUOTE, UNETHIC AL , BUT WHAT HAPPENED IN 1 99 8 WAS THE BIERBAUER CASE IN CALIFORNIA. THE SUPREME COURT SAID THAT CASE WAS A CONCEPTUAL TORPEDO, BECAUSE EVERYBODY SAID IF THE CAL IFORNIA SUPREME COURT , WHOM EVERYBODY HELD IN G REATREGARD, WOULD SAY SO MEBODY COULD COME IN AND DO AN ARBITRATION AND ONLY VISIT THE STATE THREE TIMES NOT FOR A HE ARING JUST TO FIND OUT INFORMATION TO GET READY FOR ARBITRATION AND LATER SETTling, HAD FORFE ITED THEIR EN TIRE FEE THO FOR THAT ACTIVITY, THE N THERE WAS A TRE MENDOUS PROBLEM , BECAUSE THERE IS A TREMENDOUS DISCONNECT BETWEEN WHERE THE RU LES A REAND WHERE THE PRACTICE IS .

IS THE POSITION , DO YOU AGREE WITH THE PARTS OF THE RULE THAT SAY, IF SOMEBODY IS GOING TO BE PARTICIP ATING AS , E ITH ER DEFENDING OR BRINGING AN ARBITRATION , THAT THEY SH OULD SU BMIT THEMSELVES TO THE BAR DISCIPLINARY PROCESS? IS THAT SOMETHING THAT I S,DO YOU OP POSE THAT , OR IS THAT

NO. I BELIEVE THAT THE BUSI NESS LAW SECTION AND THE BAR COMMITTEE , BOTH, UNDERSTAND THAT, WHEN SOME ON E COMES TO PRACTICE IN FLORIDA, THAT THEY ARE SUBJECT TO THE JURISDICTIONS OF THIS COURT.

DO YOU , ALSO HOW, GO AHEAD.

THE PROBLEM WITH THAT , I S THAT THE LAWYERS ON NOTICE FILE, COMES DOWN HERE F ROM SOUTH CARO LINA, SE TS UP A N OFFICE IN F T. LAUDER DALE , BE IS GOING TO REGULA RLY HAN DLE ARBITRATIONS OF CABLE COMPANY DISP UTES WITH T HEIR CUSTOMERS , SAY , AND THERE ARE THOUSANDS OF THEM , AND SO THAT LAWYER IS HAND LING THOSE.IS HE FROM SOUTH CAR OLINA . NOW , HE SUBMITTED HIMSELF TO THE JURISDICTION OF FLORIDA UNDER YOUR THE OR Y , BUT FLORIDA CANNOT DISCIPLINE HIM, IN SO FAR A S DISBARRING THAT LAWYER, BECAUSE HE I S ADMITTED TO THE PRACTICE OF LAW IN SOUTH CARO LINA!

BUT, YOUR HONOR, IN THAT SCENARIO THAT YOU ARE GI VING , THAT LAWYER IS ENGA GED I N THE GENE RAL PRACTICE. THAT IS A VI OLATION OF THESE RULES.

WELL , I THOUGHT THAT IT WAS A NEXUS BETWEEN

THERE IS NO QUESTION THAT, EVEN, I BELIEVE, THE ABA DOES NOT END ORSE THE GEN ERAL PRACTICE OF LAW IN A FOREIGN JURIS DICTION.THE ONLY QUES TION THAT W E ARE FIGHTING ABOUT HERE , IS WHAT IS THE GENERAL PRACTICE OF LAW? WHAT THEY ARE SAYING IS "THREE STRIKES" AND YOU ARE OUT! AND THE QUESTION IS , WHAT IF IT IS ONLY THREE DEMA NDS FOR ARBITRATION THAT, AS SOON AS THE DEMANDS ARE FILED , T HE CASE IS SETTLED!

BUT WHAT I AM TRYING

THAT IS NOT THE GENERAL RULE.

WHAT I AM TRYING TO UNDERSTAND IS HOW, PRACTICALLY, YOU COME UP WITH THE NEXUS IDEA, BECAUSE THERE IS A NEXUS BETWEEN ALL OF THESE CASES THAT HAVE TO DO WITH THE CABLE COMPANY, AND ITS SUBSCRIBERS.

YOUR HONOR, THE CASE THAT YOU ARE DESCRIBING HAS BEEN DEALT WITH BY THIS COURT IN THE ROCKPORT DECISION. YOU CAN'T MOVE HERE AND OPEN AN OFFICE AND PRACTICE LAW, WITHOUT TAKING THE BAR EXAM. THAT IS NOT WHAT THE BUSINESS LAW SECTION IS ADVOCATING.

THAT IS WHAT I WANTED TO FIND OUT.

WHAT WE ARE SAYING HERE IS, WHAT IS PROTECTING CLIENTS? THIS IS ALL BEING DONE IN THE NAME OF PROTECTING THE CLIENT.

NEXUS HAS TO BE, IT HAS TO BE PERFORMED FOR A CLIENT IN THE LAWYER'S HOME STATE. IS THAT PART

THERE IS AN EITHER/OR.

WHAT ARE ONE OF THE SERVICES THAT A LAWYER IS REASONABLY ALLOWED TO PRACTICE IN A JURISDICTION. AGAIN, WOULD THAT MEAN IF A LAWYER IS AN EXPERT IN SECURITIES? THAT IS IT? THAT IS THE NEXUS REQUIREMENT?

LET'S TAKE THE QUESTION THAT WAS STATED EARLIER. WHAT IF YOU HAVE SOMEONE WHO IS AN EXPERT IN A PARTICULAR KIND OF CASE WHO THE CLIENT HIRES, BECAUSE HE IS THE BEST IN THE COUNTRY, IT TO COME TO THIS JURISDICTION AND TRY THE CASE.

HOW MANY TIMES?

WHEN IT BECOME AS GENERAL PRACTICE

WHEN DOES THAT HAPPEN?

THAT IS A FACTUAL DETERMINATION.

BY THE TRIAL JUDGE?

WELL, IN THE CASE AFTER PRO HAC VICE ADMISSION THAT, IS HOW IT HAS BEEN DONE FOR 100 YEARS. THE TRIAL JUDGE HAS DETERMINED ELIGIBILITY FOR PRO HAC VICE ADMISSION.

ISN'T THAT EXACTLY WHY WE ARE HERE THOUGH, BECAUSE THAT SYSTEM HAS NOT WORKED, BECAUSE PRIOR JUDGE RESPECT NOT POLICING THAT?

NO. THEY ADMIT IN THEIR PAPERS, THAT THERE IS ABSOLUTELY NO IMPERICAL EVIDENCE THAT THE SYSTEM IS BROKEN IN THAT REGARD! THEY HAVE NOT COME UP WITH ANY PROOF THAT THIS SYSTEM IS BEING ABUSED!

IT IS KIND OF HARD TO PROVE THIS KIND OF ISSUE, ISN'T IT?

THEY HAVE NEVER TRIED TO COLLECT ANY EVIDENCE. I REPRESENTED THE COMMITTEE. THE COMMITTEE WAS FIRST ASKED IN SEPTEMBER, THIS PAST SEPTEMBER, TO GATHER EVIDENCE ON THAT POINT. THIS WAS AFTER THE RULE-MAKING WAS DONE! WHAT WE ARE SUGGESTING IS

THAT THAT IS AN EX CUSE NOT A REASON. THAT THE REAL REASON HERE, IS PROTECTIONISM, AND THESE CONCERNS, ALL THE LAWYERS ARE COMING IN AND DOING THIS , THEY DON'T KNOW. THAT EVERYTHING WE HAVE HEARD IS ANECDO TAL , AND W HAT WE ARE WORRIED ABOUT IS THE REAL REASON BEHIND THIS R ULE IS TO PROTECT FLOR IDA LAWYERS FROM EXPERTS WHO CLIENTS HAVE CH OSEN TO CO MEIN HERE AND AR GUE THEIR CASES. IN IS OLATED CASES , THEY ARE NOT MOVING HERE TO OPE N AN OFFICE. THESE ARE, WE ARE THE BUSINESS LAW SE CTION.

LET ME ASK THE SAME QUESTION, JUST A FOLLOW-UP , IF THE OFFICE IS NOT I N FT. LAUDERDALE THAT JUSTICE WELLS JUST ASKED ABOUT , BUT THAT OFFI CE IS IN SOUTH CAROLINA AND THAT LAWYER JUST SPENDS ALL WEEK IN A HOTEL IN FT. LAUDER DALE , AND DOES THE SAME KINDS OF THI NGS, THEN THAT IS ACCEPTABLE UNDER YOUR P LA N .

IT IS NOT MY P LAN. IT IS THE AMER ICAN BAR ASSOCIATION.

IT IS ACCEPTABLE UNDERWHAT YOU ARE PROPOSING TO US , CORRECT?

YES. IT DE PENDS UPON WHETHER IT BECOMES THE GENERAL PRACTICE. BUT THE PROBLEM WITH THIS NUMERICAL LIM I TATION , IS THAT, AS YOUR HONOR HAS NOTED, TW O COULD BE ALL YEAR. THREE COULD BE FIVE MINUTES . THE NUMBER IS INHERE NTLY ARBITRARY.

SO HOW WO UL D YOU DE FINE OR ARGUE GENERAL PRACTICE ?

IT CERTAINLY WOULDN'T BE THE THREE DEMANDS FOR ARBITRATION THAT NEVER GO BEYOND THE SETT LEMENT AFTER THE LETTERS ARE SENT .

WHAT WOULD IT BE?

IT WOULD BE A FAC TUAL DETER MINATION THAT THE BAR WOULD HAVE TO MAK E!

AND ISN'T THAT JUST A S ARBITRARY AS THE THRE E?

NO.IT IS NOT, BECAUSE IT WOULD H AVE A FACTUAL BA SIS.

AT ONE TIME YOU CAN SAY IT IS THREE AND ANOTHER TIME YOU CAN SAY IT IS THI RTY?

YOUR HONOR - -

ONE JUDGE WON'T KNOW HOWTHE OTHER JUDGE RULE D.

RIGHT NOW UNDER THESE PROPOSALS , THE REQUIREMENT FOR THE MOTION IS VERY DETAILED. THE INFORMATION BEFORE THE TRIAL JUDGE AND THE AMERICAN BAR ASSOCIATION, HAS DONE A PRO HAC VICE MOTION REQUIREMENT, AL SO, THAT WOULD PRO VIDE THE TRIAL JUDGE WITH THIS KI ND OF INFORMATION.

I GUESS THE BENE FIT THAT THE BAR 'S PROPOSAL HAS IS UNIFORMITY. EVERYBODY KNOWS IT IS THREE AND YOU ARE OUT. RIGHT NOW IT IS THREE BUT THE JUDGE HAS DISCRETION TO LET YOU IN, ANYWAY, SO IT I S REALLY NOTHING, AND IT SE EMS LIKE YOUR PROPOSAL IS NOT MUCH MORE THAN WHAT W E HAVE. IT IS SJUTS AS IT I S J UST AS VAGUE AND AMBIGU OUS , A CASE BY CASE APPROACH. WOULDN'T WE BE BET TER OFF WITH JUST INCREASING T HE NUMBER?

WELL , YOUR HONOR , IT IS TRUE IN THIS CASE, THAT THE BAR IS , IN THE NAME OF LIBERALIZING, CUTTING BACK FROM A THREE-PLUS SYSTEM TO A "THREE STRIKES" YOU ARE OUT SYSTEM, SO ALTHOUGH THESE AMENDMENTS ARE ADVANCED AS SOMETHING THAT IS GOING TO OPEN UP PRACTICE TO SOME D E GREE FOR OUT-OF-STATE LAWYERS, INFAC T IN THE PRO HAC VICE AREA, I THINK THEY PR ETTY MUCH CL EARLY ADMIT THAT T HEY ARE CUTTING BAC K TO THREE.

REAL LY, THOSE , REALLY WE ARE DEALING WITH TWO DIFFERENT QUESTIONS. ONE IS IN THE ARBITRATION AREA, THAT THERE HAS BEEN NO WAY TO PRACTICALLY , TO REGULATE HOW LAWYERS ARE PRACTICING IN ARBITRATION, AND, YOU KNOW , I THINK THAT , SO YOU ARE NOT , ARE YOU PROPOSING A DIFFERENT STANDARD SHOULD PERSIST FOR THOSE ENGAGED IN ARBITRATION, THAN THOSE ENGAGED IN COURT PROCEEDINGS ? OR WOULD YOU SAY THAT WHATEVER IT IS WOULD BE THE SAME?

WE ARE IN FAVOR OF THIS COURT AD OPTING THE AMERICAN BAR ASSOCIATION PROPOSALS FOR ARBITRATION AND FOR PRO HAC VICE, AND OUR FALLBACK POSITION IS, IF YOU ARE NOT GOING TO ADOPT THE AMERICAN BAR ASSOCIATION

AND THE AMERICAN BAR ASSOCIATION SAYS UNLIMITED BUT THEY HAVE TO

THERE IS NO NUMERICAL LIMITATION BUT THEY ARE LIMITED BY GENERAL PRACTICE. YOU CANNOT ENGAGE IN GENERAL PRACTICE.

HOW MANY STATES HAVE ADOPTED THAT PROPOSAL?

WITH MINOR CHANGES , WE WILL FIND IT FOR YOU. I BELIEVE THERE IS A NUMBER.

LET'S JUST , SO IF THE JUDGE IS THE PERSON , JUDGES NOW ARE SUPPOSED TO HOLD HEARINGS ON WHEN SOMETHING BECOMES THE GENERAL PRACTICE?

NO. THE BAR IS BEING SENT COPIES. ACCORDING TO THEIR PROPOSAL , EVERY TIME YOU COME TO FLORIDA AND YOU APPEAR IN AN ARBITRATION OR YOU ARE INVOLVED IN PRO HAC VICE, YOU SEND THE BAR A COPY. THE BAR HAS INFORMATION.

A LAWYER, WHEN THEY SAY NOW YOU ARE IN GENERAL PRACTICE, YOU ARE UNAUTHORIZED, NOW THIS COURT WILL BE MONITORING THAT ISSUE AS A PRACTICAL MATTER , WHICH , WITHOUT ANY REAL WAY , SENT TO REFERENCES . I GUESS , A GAIN, YOU HAVE TO APPRECIATE THAT THAT SOUNDS, TO ME, LIKE SOMETHING THAT WOULD, REALLY , BE UNMANAGEABLE. I HAVE SOME SYMPATHY FOR THE ISSUE THAT, MAYBE, THE , FOR THE ARBITRATIONS, THE FACT OF THE DEMAND IS , REALLY , NOT THE PLACE TO GO, BUT TO LOOK AT WHETHER THERE IS ACTUALLY AN ARBITRATION THAT TAKES PLACE, AND I THINK THAT IS LEGITIMATE QUESTION THAT , I THINK , WAS BROUGHT TO LIGHT THAT WE OUGHT TO LOOK AT , BUT I HESITATE TO , AND DOES IT NOT SEEM THAT THE ALTERNATIVE , ALL, OR THE ALTERNATIVE OF THE AMERICAN BAR ASSOCIATION , WHICH I AM SURE IS MADE UP WITH MANY LAWYERS THAT HAVE MULTIJURISDICTIONAL PRACTICES, IS, REALLY, IN THE BEST INTEREST OF THE ADMINISTRATION OF JUSTICE IN THIS STATE, AND THE PRACTICAL EFFECTS OF HAVING TO EFFECTS OF HAVING TO MAKE THOSE DISTINCTIONS, SO IF YOU COULD HELP A LITTLE MORE ON WHERE, HOW THAT DETERMINATION WOULD BE MADE UNDER YOUR VIEW OF THIS.

WELL, I THINK YOUR HONOR IS RIGHT. IN ARBITRATION, THAT YOU NEED A MORE MEANINGFUL CONNECTION TO FLORIDA THAN JUST FILING A DEMAND, BECAUSE AS I UNDERSTAND IT, MANY OF THOSE DO SETTLE , AND IT IS NOT A MEANINGFUL WAY TO LIMIT THIS.

COULDN'T THE SAME THING BE SAID FOR LITIGATION. I MEAN, A COMPLAINT IS FILED AND THEN YOU ENGAGE IN EVERYTHING ELSE BUT YOU DON'T MAKE IT TO TRIAL , AND YOU MAY LITIGATE JUST AS YOU MAY BE ENGAGED IN ARBITRATION MATTERS FOR YEARS!

BUT

SO YOU ARE DOING, AND WHAT YOU ARE REALLY TRYING TO ACCOMPLISH WITH THIS , SO TO DIRECT IT TO THE CHARACTER AND FITNESS ISSUES , TO THE PROFICIENCY IN THESE PARTICULAR AREAS AND THE PROTECTION OF FLORIDA CITIZENS , THAT THAT IS, WHETHER IT GO

ES TO TRIAL OR NOT IS IRRELEVANT. IT IS THE LEGAL WORK THAT IS DONE THAT LEADS UP. HE MAY BE A TERRIBLE PERSON THAT SETTLES EVERYTHING OUT FROM UNDER FOLKS AND YOU NEVER REACH AN ARBITRATION, SO I DON'T SEE THAT SOMEHOW THE FILING OF THE DOCUMENT, YOU CAN DO EVERYTHING ELSE AND IT IS MAGIC WHEN YOU GO INTO THE PROCEEDING, THAT THAT IS MAGIC.

BUT, JUDGE, WHEN YOU SAY THAT SOMEONE HAS SELECTED, TALK ABOUT A SOPHISTICATED BUSINESS PERSON, SLEEKED AN OUT-OF-STATE

I HIM TALKING ABOUT JOE CITIZEN. YOU ARE NOT SPEAKING JUST TO BUSINESS PEOPLE OUT THERE. JOE CITIZEN NEEDS TO BE PROTECTED AS WELL.

BUSINESS PEOPLE NEED TO BE PROTECTED AS WELL. YOU CAN'T PUT IT ASIDE UNDER THE THAT THERE MAY BE SOMEBODY OUT THERE WHO HAS TO BE PROTECTED. WHEN YOU HAVE THE BEST PERSON IN NO, WHO COMES DOWN BECAUSE HE HAS BEEN SUED WITH DEFECTIVE PRODUCT AND HE COMES DOWN TO FLORIDA AND YOU PICK THREE OF THEM BECAUSE HE CAN'T DO ANYTHING OTHER THAN THE THREE, IN THE NAME OF THE CLIENT, THAT IS PROTECTIONISM.

LET ME SUGGEST SOMETHING THAT, COULD IT BE RESOLVED WITH THIS RULE, PROTECTING EITHER PARTY, BUT ALONG THE LINES OF YOU WILL HAVE DISCRETION OF UP TO FIVE WITHOUT THE APPROVAL OF THE FLORIDA BAR, SO THAT IF YOU HAVE SOMEBODY WHO HAS SIX CASES REPRESENTING A LADDER COMPANY IN MORNING NEW YORK, COMING DOWN HERE COMPANY IN NEW YORK COMING DOWN HERE AND THERE ARE SIX IDENTICAL PRODUCT LIABILITY CASES, THE LAWYER CAN GO TO THE BAR NOT JUST TO THE TRIAL JUDGE, BECAUSE THOSE ARE ISOLATED CASES. THEY DON'T KNOW WHAT THE OTHER JUDGES ARE DOING, BUT TO GO TO THE BAR AND PRESENT YOUR CASE TO THE BAR THAT YOU SHOULD BE ABLE TO REPRESENT ALL SIX CASES.

THAT IS A POTENTIAL COMPROMISE, YOUR HONOR, BUT COMPROMISE, YOUR HONOR, BUT LET ME EMPHASIZE AGAIN, WE ARE NOT HERE TODAY BECAUSE THERE HAS BEEN A PROVEN PROBLEM AND YOU HAVE GOT TO WATCH THIS LIKE A HAWK. WE ARE HERE TODAY TO LIBERALIZE. THIS WAS ALL BECAUSE OF THE BIERBAUER CASE. THE ABA STUDIED THIS AND SAID LET'S OPEN THE GATES GAETS AND THEY SAID LET'S OPEN UP THE GATES BY SHUTTING DOWN PRO HAC VICE. WE SHOULDN'T BE SO CONCERNED. TELL THE BAR TO COME BACK AND STUDY THE PROBLEM WHEN THERE IS A PROBLEM, BEFORE IT COMES UP WITH THE RULES. IT IS ANECDOTES AND CONCERNS OF REGULATORS.

WHAT KIND OF EMPIRICAL DATA ARE YOU BASING THAT ON THAT IT IS NOT IN FLORIDA? YOU ARE TRYING LADDER CASES THAT COME ABOUT ALL THE TIME. IF YOU ARE DOING TRANSACTIONAL CASES, ARE YOU IN THE COURTROOMS IN BROWARD AND DADE COUNTIES, WHERE THIS IS HAPPENING ON A REPRESENTATIVE BASIS?

I AM AN APPELLATE LAWYER, YOUR HONOR, BUT WHAT I AM SAYING IS IN THIS CASE WE SHOULDN'T BE LOOKING AT THIS AS IF THEY FOUND A PROBLEM AND SHOULDN'T BE TRYING TO SOLVE THE PROBLEM UNDER PRO HAC VICE. WE ARE SAYING STAY UNDER THE RULES OF THE FLORIDA BAR AND SHOW US DATA. COLLECT DATA. FIND OUT HOW MANY PEOPLE ARE OUT THERE, PRACTICING WHEN THEY SHOULDN'T BE, ENGAGE IN THE GENERAL PRACTICE.

HOW DO YOU EFFECTIVELY DO THAT? ONE OF MY CONCERNS IS ONE OF THE MOST VALUABLE ASPECTS OF AN INDEPENDENT LAWYER PRACTICING, IS THERE IS A LOYALTY TO THE PUBLIC, LOYALTY TO THE BAR, ET CETERA. IF YOU OPEN THIS DOOR, WHAT IS TO KEEP A MAJOR BUSINESS FROM JUST HIRING A BUNCH OF IN-HOUSE COUNSEL SO THERE IS NOT THAT INDEPENDENCE, AND THEY ARE GOING ALL OVER THE COUNTRY, TRYING THE LADDER CASE OR THE OTHER PRODUCT LIABILITY CASE, AND YOU REALLY LOSE THE INDEPENDENCE. I UNDERSTAND IT IF YOU HAVE AN INDEPENDENT PRACTICE, LET'S SAY IN BIRMINGHAM, WHERE YOU ARE REALLY AN INDEPENDENT LAWYER, AND SO THERE IS THAT INDEPENDENCE THAT CONCERNS ME ON THE

PRACTICE OF LAW, BUT IF WE OPEN IT UP AS BROADLY AS YOU DO, WHAT TAKES A HOME DEPOT FROM HIRING 20 LAWYERS AND THEY GO THROUGH FLORIDA AND EVERY OTHER STATE, TRYING THESE CASES, AND THEY DON'T HAVE THE INDEPENDENCE FROM THE CLIENT THAT IS SO VALUABLE TO OUR SYSTEM?

WELL, I AM GOING TO EXERCISE MY LEG A LITTLE BIT AND POINT TO MY NEXT SPEAKER. SHE IS GOING TO ADDRESS IN-HOUSE COUNSEL BUT I WANT TO FOLLOW UP ONE STEP FURTHER AND SAY WHAT ABOUT THE FAMOUS CRIMINAL ATTORNEY WHOM EVERYBODY WANTS TO HIRE WHO COMES IN FROM NEW YORK TO TRY THIS CRIMINAL CASE AND HE HAS GOT THREE, AND UNDER THE IR RULE, THAT FOURTH CLIENT IN A YEAR CALLS HIM AND HE HAS GOT TO SAY TO HIM, YOU KNOW, I CAN'T GO TO FLORIDA AGAIN UNTIL NEXT APRIL. SEE IF YOU CAN DELAY THE INDICTMENT!

BUT ISN'T THE SIXTH AMENDMENT HORRIBLES IS A DIFFERENCE A DIFFERENT ISSUE, AND IF THAT NEEDS TO BE ADDRESSED, IT CAN BE ADDRESSED BY A JUDGE SAYING IF IT NEEDS TO BE APPLIED THEN WE CAN APPLY IT IN THAT FASHION, BUT WHY NOT THE REASON AS JUSTICE BELL HAS INDICATED, THE WHOLE SELF PRACTICE OF LAW IN CIVIL MATTERS THAT IS NEVER RECOGNIZED, THAT KIND OF CONSTITUTIONAL PROTECTION, BUT YOU CAN JUST HIRE WHOEVER YOU WANT WITHOUT REGARD TO BOUNDARIES, AND IT IS MY UNDERSTANDING THAT THE U.S. SUPREME COURT HAS ALWAYS RECOGNIZED THE ABILITY OF STATES TO CONTROL WHO ACTUALLY IS IN THE COURT ROOMS AND WHO IS ADVISING, PROVIDING LEGAL ADVICE TO ADVICE TO THE CITIZENS OF THAT STATE.

WELL, YOUR HONOR, THE WAY THIS IS SET UP, IT WILL BE A RULE OF JUDICIAL ADMINISTRATION, WHICH WILL APPLY IN BOTH CRIMINAL AND CIVIL SIDE, AND YOU ALSO HAVE CASES LIKE U.S. VERSUS ALVAREZ OUT OF THE FIRST ZUKT IN 1987, WHICH FOUND A NUMERICAL LIMITATION AS APPLIED IN A CRIMINAL CASE, TO BE INVALID.

MY POINT IS, WHY DO WE NECESSARILY HAVE TO TIE WHAT HAPPENS IN THE CIVIL ARENA TO THE COATTAILS OF AN ARENA THAT DOESN'T APPLY.

WHAT, THE POINT I AM TRYING TO MAKE IS AS PRO HAC VICE, WE WOULD URGE THAT YOU LEAVE THE PRO HAC VICE ALONE BECAUSE THERE IS NO PROOF THAT THERE IS A PROBLEM. TOO ARBITRATION, THERE IS A PROBLEM. I THINK EVERYBODY ADMITS THE CURRENT RULE IN THIS COURT'S

YOU ARE SAYING THERE IS MORE FLEXIBILITY IN THE CURRENT RULE THAN THERE WOULD BE IN TRYING TO

EXACTLY.

, REALLY, EXPAND, BUT YOU REALLY ARE CUTTING BACK IN THAT CASE IS THAT CORRECT?

AND THE BUSINESS LAW SECTION HAS SPECIFICALLY DISCUSSED THE PROBLEMS THAT YOU ARE DISCUSSING, AND THE NEED FOR, PERHAPS, A CLEARER, BRIGHTER LINE, AND WE RECOGNIZE THAT THE CURRENT RULE PROVIDES THAT AND WE ARE SATISFIED WITH STAYING WITH THE CURRENT RULE AS A STUDY OF THE PROBLEM IS MADE TO SEE IF THERE IS A PROBLEM THAT SHOULD CHANGE IT, BUT AS TO ARBITRATION, THE RAPAPORT DE CISION HAS HAD A CHILLING EFFECT THROUGHOUT THE ARBITRATION AREA, AND MANY PEOPLE ARE SCARED, IN LIGHT OF THAT DECISION, TO COME TO FLORIDA AT ALL AND PARTICIPATE AT ALL, AND I THINK THAT WE DO NEED SOME SORT OF A BRIGHT LINE OR SOME SORT OF AN OKAY, SO PEOPLE WILL COME INTO FLORIDA AND ARBITRATE. THE PROBLEM IN ARBITRATION IS DIFFERENT, BECAUSE ONCE YOU HAVE YOUR THREE IN ARBITRATION, THERE IS NO JUDGE WHO HAS, AS IN A PRO HAC VICE SITUATION, CAN SAY FOUR IS OKAY, FIVE IS OKAY, AND ONCE YOU SAY THAT THE BAR IS NOT GOING TO BOTHER YOU. YOU DON'T HAVE THAT IN ARBITRATION, SO IF YOU ARE GOING TO COME

UP WITH A FLEXIBLE NUMERICAL APPROACH THERE, YOU MAY SAY THE BAR HAS TO ENTERTAIN SOME KIND OF PROCEEDING AND THIS COURT HAS TO HAVE AN APPELLATE REVIEW OF THAT AND THERE IS NOT THAT KIND OF MECHANISM IN THE PROPOSALS. WE WOULD ASK THAT, IF YOU DO STAY WITH A NUMERICAL APPROACH, THAT YOU STAY - - IF YOU DO STAY WITH A NUMERICAL APPROACH, THAT YOU STAY WITHIN THAT GUIDELINE. THANK YOU VERY MUCH.

MAY IT PLEASE THE COURT. CATHY KLOC ON BEHALF OF THE SECURITIES INDUSTRY ASSOCIATION ARBITRATION COMMITTEE. AS THIS COURT IS LIKELY AWARE, THE SIA IS A PRINCIPAL NATIONAL TRADE ORGANIZATION OF THE SECURITIES INDUSTRY AND IN THAT CAPACITY REPRESENTS OVER 600 SECURITIES FIRMS. THE SIA IS PARTICULARLY IMPACTED BY THE FLORIDA BAR'S PROPOSED RULES BECAUSE IT IMPACTS THE ABILITY OF BROKERAGE FIRMS TO HAVE IN-HOUSE ATTORNEYS REPRESENT THEM IN ARBITRATIONS IN FLORIDA. SECURITIES FIRMS TYPICALLY ARBITRATE THE VAST MAJORITY OF THEIR LITIGATION. THEY HAVE TO ARBITRATE DISPUTES WITH CUSTOMERS. THEY HAVE TO ARBITRATE DISPUTES WITH EMPLOYEES, AND THEY HAVE TO ARBITRATE DISPUTES BETWEEN THEMSELVES, BECAUSE THE RULES OF THE NISD, THE NEW YORK STOCK EXCHANGE AND OTHERS REQUIRE MEMBER FIRMS TO ARBITRATE WITH EACH OTHER, SO THEY DO HAVE IN-HOUSE ATTORNEYS WHO DO REPRESENT IN ARBITRATIONS. THESE IN-HOUSE ATTORNEYS ARE PARTICULARLY QUALIFIED TO REPRESENT THEIR EMPLOYERS IN ARBITRATIONS, BECAUSE THEY ARE FAMILIAR WITH THE FIRM'S PROCEDURES. THEY ARE FAMILIAR WITH THE SRO RULES THAT GOVERN THEIR CONDUCT. THEY ARE FAMILIAR WITH THE PRODUCTS THE FIRMS SELL, AND THEY, ALSO, CAN CARRY THAT EXPERTISE AND KNOWLEDGE FROM CASE TO CASE.

HOW MANY IN FLORIDA, HOW MANY LAWYERS SPECIALIZE IN SECURITIES AND, BOTH FOR, DO WE KNOW, FOR PLAINTIFFS AND, ALSO, FOR DEFENDING SECURITIES FIRMS?

FLORIDA LAWYERS? THE NUMBERABLE.

A LOT ENUMERABLE.

A LOT.

A LOT. IT ALSO IS ECONOMIC, AND NUMBER ONE IT WOULD RECOGNIZE THE CLIENT'S CHOICE OF COUNSEL AND IT IS MORE ECONOMIC FOR BROKERAGE FIRMS TO USE THEIR OWN IN-HOUSE COUNSEL.

SPEAK TO THE INDEPENDENCE ISSUE, BECAUSE ONE OF THE BIGGEST PROBLEMS, NOT PROBLEMS BUT I GUESS THERE ARE TWO-WAYS TO LOOK AT IT. IT WAS ALWAYS BENEFICIAL TO ME, WHEN THE FIRE REALLY GOT HOT AS A TRIAL JUDGE AND THE PARTIES WERE REALLY TOE-TO-TOE, TO BE ABLE TO SAY TO THE ATTORNEY, YOU REMEMBER, FIRST, YOUR RESPONSIBILITY IS TO THE BAR AND THE PUBLIC AND NOT TO YOUR CLIENT. THAT IS EASIER TO SAY TO AN INDEPENDENT ATTORNEY THAN IN-HOUSE COUNSEL, WHOSE SALARY AND JOBS TO TALLY DEPENDENT UPON THE EMPLOYER WHO IS ALSO THE CLIENT. SPEAK TO THAT CONCERN.

AN IN-HOUSE ATTORNEY HAS THE SAME OBLIGATIONS TO THE BAR AND THE PUBLIC, AS AN OUTSIDE COUNSEL THEY TAKE THE BAR. THEY TAKE AN OATH, AND WHILE THEY MAY HAVE MORE DIFFICULTY PERSONALLY, AS THE SARBAINES ACT AND OTHERS HAVE SAID, THAT DOESN'T MATTER. YOU HAVE AN OBLIGATION AND OBLIGATIONS AREN'T TRUMPED BY WHO IS MAKING, PAYING YOUR PAYCHECK. ALSO ADDRESSING YOUR QUESTION, JUSTICE BELL, YOU ASKED WHAT IS GOING TO PREVENT IN-HOUSE COUNSEL FROM BEING HIRED, BUILDING A STAFF IN HOUSE AND HANDLING LITIGATION IN A FLORIDA. WELL, THE MODEL AB A RULE DOES NOT PERMIT IN-HOUSE COUNSEL TO COME INTO COURTS ONLY PERMITS THEM TO COME INTO ARBITRATION, BECAUSE IT SPECIFICALLY SAYS THAT IT ONLY AUTHORIZES TEMPORARY PRACTICE, UNLESS THE FORUM WOULD REQUIRE PRO HAC VICE, SO IT WOULDN'T IMPACT ATTORNEYS COMING INTO COURT. THEY WOULD STILL HAVE TO GO THROUGH THE PRO HAC VICE

PROCESS.

WHY IS THAT? I MEAN, I GUESS, YOU KNOW, WITH OUR , THE INCREASING NUMBER OF ARBITRATIONS AND , ALTHOUGH SOME SAY THESE ARE ALL VOLUNTARY, WE ALL KNOW THAT IT IS A MATTER OF REALITY, THAT , YOU KNOW, IT IS PART OF THE CONTRACT THAT IS SIGNED, WHETHER, IN DIFFERENT FORUMS, NOT JUST SECURITIES BUT THROUGHOUT , AND SO WHY SHOULD THE RULE BE DIFFERENT , WHATEVER IT IS , FOR ARBITRATION , THAN FOR REPRESENTATION IN COURT? ISN'T, DOESN'T THE PUBLIC, WHO ESPECIALLY THE PERSON WHO IS EITHER SUIING OR BEINGSUED, HAVE THAT , THE SAME INTERESTS IN , THAT THE , NO MATTER WHAT FORUM THEY ARE IN?

WELL , THE PROCEDURES ARE ACTUALLY VERY DIFFERENT. IF YOU ARE IN COURT IN FLORIDA, IN A FLORIDA COURT , YOU ARE DEALING WITH FLORIDA PROCEDURES, FLORIDA LAW . IF YOU ARE IN ARBITRATION , THE SRO 'S HAVE THEIR OWN DISCOVERY RULES , THEIR OWN PLEADING RULES, THEIR OWN HEARING RULES.

NOW YOU ARE TALKING ABOUT SECURITIES ARBITRATION. YOU ARE NOT TALKING ABOUT AAA ALSO HAS DISCOVERY RULES AS WELL.

FLORIDA LAW APPLIES. THEY ARE APPLYING, IF IT IS ARISING OUT AFTER FLORIDA CASE, YOU ARE STILL INTERPRETING FLORIDA LAW.

IF IT ARISES OUT OF A FLORIDA CASE.THERE ARE INSTANCES WHERE , FOR EXAMPLE , I HAVE ARBITRATION RIGHT NOW , IN FLORIDA , WHERE NEITHER OF THE PARTIES ARE FLORIDA RESIDENTS. ONE IS A NATIONAL, IS A CITIZEN OF ISRAEL AND ONE IS A NEW YORK CITIZEN . RIGHT.

IN STATE COURT , WE HAVE GOT, SOMETIMES LAWYERS HAVE TO ARGUE FOR EIGN LAW , BUT, I MEAN, I STILL HAVE A PROBLEM WITH, WHY , MAKING THE DISTINCTION.

LET ME ASK , IT SEEMS TO ME AND I KEEP COMING BACK TO THIS, THAT THE REAL COMPLICATION THAT WE ARE CONFRONTED WITH , IS ESPECIALLY IN SECURITIES LITIGATION , AND THERE ARE WHOLE OTHER AREAS IN ARBITRATION, IS THAT WE HAVE A NATIONAL ECONOMY AND A NATIONAL SYSTEM , BUT IT IS BUILT UPON A FEDERAL STRUCTURE , AS FAR AS THE ADMISSION AND DISCIPLINE OF LAWYERS ARE CONCERNED , AND IF YOU HAVE GOT , IN ARBITRATION , WITH, AND THE COMPANY IS REPRESENTED , BY A NEW YORK LAWYER , WHO IS DOWN HERE , AND THAT LAWYER GOES OUT AND CONTACTS MY CLIENT AND TRIES TO BUY OUT MY CLIENT WITHOUT ME KNOWINGABOUT IT, AND THAT IS OF CONCERN TO ME , THAT THE FLORIDA COURT DOESN'T HAVE ANY REAL JURISDICTION TO DEAL WITH THE DISCIPLINING OF THAT NEW YORK LAWYER , AS FAR AS SUSPENDING THAT LAWYER , OR DISBARRING THAT LAWYER .

THE SIA DOESN'T ACTUALLY OPPOSE PORTIONS OF THE FLORIDA BAR PROPOSED RULE 1-311, WHICH WOULD REQUIRE LAWYERS WHO APPEAR IN ARBITRATIONS IN FLORIDA , TO GO THROUGH A CERTIFICATE PROCESS.IT IS ACTUALLY A VERY VALUABLE TOOL FOR THE BAR TO HAVE, AND IN THAT CONNECTION, THEY ARE SUBJECTING THEMSELVES TO THE FLORIDA BAR'S, THE RULES REGULATING THE FLORIDA BAR, SO THAT ISSUE IS ADDRESSED.

BUT WE STILL HAVE THE PROBLEM IS THAT, UNLESS NEW YORK, THE NEW YORK COURT IS GOING TO DISBAR OR SUSPEND THAT LAWYER , WE CAN DEAL WITH THEM , AS FAR AS , PERHAPS , WHAT THEY DO FURTHER IN FLORIDA , BUT WE CANNOT DO ANYTHING AS FAR AS THEIR LICENSE TO PRACTICE LAW IS CONCERNED.

I THINK THE FLORIDA BAR CAN CERTAINLY MAKE A REFERRAL, BUT THE BUSINESS OF THE

FLORIDA BAR IS TO PROTECT THE CITIZENS OF THE STATE OF FLORIDA, AND IN PARTICULAR AS IT APPLIES TO IN-HOUSE COUNSEL'S REPRESENTATION OF THEIR EMPLOYERS. THE CLIENT IN THAT INSTANCE, IS THEIR EMPLOYER WHO HAS SCREENED THEM, HAS HIRED THEM, HAS DETERMINED THEIR QUALIFICATIONS AND HAS THE ABILITY TO TERMINATE THEIR SERVICES IF THEY ARE NOT COMPETENT, SO THE FLORIDA BAR'S ROLE OF PROTECTING THE PUBLIC ISN'T APPLICABLE THERE, AND THERE IS NO RATIONALE THAT SHOULD PREVENT A CLIENT FROM USING THEIR OWN IN-HOUSE ATTORNEY IN THAT CIRCUMSTANCE. CORPORATIONS OF SOPHISTICATED USERS OF CLIENT SERVICES, AND THAT IS A GOOD RATIONALE FOR PERMITTING INTERNATIONAL ARBITRATION. THEY ARE SOPHISTICATED CLIENTS, AND THEY HAVE THE ABILITY TO DETERMINE THE QUALIFICATIONS OF THEIR ATTORNEY AND DON'T NEED THE PROTECTION OF THE BAR.

NOW, YOUR ARGUMENT TO DAY ISN'T THAT WE ARE SOMEHOW PREEMPTED BY THE FEDERAL SCHEME OF THE SECURITIES ACTS THAT

NO, YOUR HONOR, IT IS NOT.

AND YOU, ALSO, THEN, AGREE THAT, WHEN SOMEBODY IS ENGAGED IN PROSECUTING OR DEFENDING AN ARBITRATION, THAT THEY ARE ENGAGED IN THE PRACTICE OF LAW.

THEY ARE ENGAGED IN THE PRACTICE OF LAW.

SO WE ARE TALKING ABOUT, AND YOUR PROPOSAL

YES.

WHERE YOUR PARTICULAR INTEREST LIES, IS FOR ALL ARBITRATIONS OR FOR JUST ARBITRATION THAT IS INVOLVE SECURITIES?

THE SIA SUPPORTS THE ABA MODEL RULE 5.5, WHICH WOULD PERMIT THE REPRESENTATION BY IN-HOUSE ATTORNEYS, OF THEIR EMPLOYERS, SECTION WHERE IT IS REQUIRED FOR EXCEPT WHERE PRO HAC VICE ADMISSION IS REQUIRED, AND THEY, ALSO, SUPPORT THE FLORIDA BAR'S PROPOSED RULE 4-5.5, WHICH PERMITS LAWYERS, OUT-OF-STATE LAWYERS, TO REPRESENT OR ENGAGE IN TEMPORARY PRACTICE IN ARBITRATIONS IN FLORIDA. WHAT WE OPPOSE IS THE THREE APPEARANCE LIMITATION BECAUSE IT DOESN'T HAVE A RATIONAL BASIS. NOW, AT FLORIDA BAR HAS PROPOSED A CERTIFICATE PROCEDURE.

CHIEF JUSTICE: MS. KLOCK, UNFORTUNATELY WE HAVE BEEN STARTING TO GO OVER TIME, SO I HAVE GOT TO REMIND YOU THAT YOUR TIME HAS EXPIRED. YOU CAN FINISH.

ON THE CERTIFICATE PROCEDURE THAT IS PROPOSED BY THE FLORIDA BAR, GIVES THE BAR A TOOL TO MEASURE AND TO EVALUATE WHETHER AN ATTORNEY'S PRACTICE IS TEMPORARY OR GENERAL, AND THE FEE THAT THE LAWYERS HAVE TO PAY, GIVES THEM THE FUNDS TO ENGAGE IN THAT PROCESS. THEREFORE THE PROTECTION OF THE PUBLIC IS THERE, AND THE BAR HAS A TOOL TO DETERMINE WHETHER IT IS TEMPORARY OR GENERAL, RATHER THAN SIMPLY APPLYING ARBITRARY LIMITATION THAT JUST DOESN'T MAKE SENSE IN TODAY'S BUSINESS ECONOMY.

CHIEF JUSTICE: THANK YOU.

GOOD MORNING. MAY IT PLEASE THE COURT. I AM JOSEPH GIANNINI AND I AM HONORED TO BE HERE.

CHIEF JUSTICE: HAVE YOU MOVED PRO HAC VICE TO BE BEFORE US? I DON'T KNOW IF THIS COUNTS OR NOT, FOR ONE OF YOUR THREE.

I AM SO RRY .

CHIEF JUSTICE: JUST GO AHEAD .

YOUR HONOR, ONE OF THE THINGS THAT I WOULD LIKE TO ADDRESS, IN RESPONSE TO THE QUESTIONS FROM THE COURT, BEFORE I ASK THE COURT FOR WHAT IT IS THAT I WOULD LIKE THE COURT TO DO , IS THE QUESTIONS THE COURT HAS POSED WITH REFERENCE TO DISCIPLINE OF OUT- OF-STATE ATTORNEYS , FOR POTENTIAL MISCONDUCT HERE IN FLORIDA OR ELSEWHERE . THE ABA MODEL COMMISSION HAS SPECIFICALLY ADDRESSED THAT CONCERN AND THEY HAVE ADOPTED A PROVISION FOR RECIPROCAL DISCIPLINE, SO THAT IF AN ATTORNEY DOES SOMETHING ANYWHERE IN ANY FORUM, HE CAN BE DISCIPLINED IN THAT FORUM FOR THAT MISCONDUCT, AND THAT DISCIPLINE WILL BE IMPOSED IN HIS HOME STATE, BY WAY OF RECIPROCITY, SO ONE OF THE CONCERNS FOR THE ABA, WHEN THEY LOOKED AT THESE RULES THAT ARE GOVERNING THE INTERSTATE PRACTICE OF LAW , IS HOW DO WE DISCIPLINE THESE LAWYERS AND HOW DO WE GET THEM ADMITTED

HOW MANY STATES HAVE ADOPTED RECIPROCAL ?

ALMOST ALL OF THEM, YOUR HONOR. ALMOST ALL OF THEM . I DON'T KNOW PRECISELY HOW MANY HAVE ADOPTED THAT RULE , BUT I HAVE A HARD TIME BELIEVING THAT ANY OF THEM HAVE NOT ADOPTED THAT RULE , BECAUSE IT BENEFITS THEM TO ADOPT THAT RULE.

HOW DOES THAT WORK IN PRACTICAL TERMS , IF A LAWYER FROM ANOTHER STATE IN PRACTICALITY, IF A LAWYER FROM ANOTHER STATE COMES TO FLORIDA, I MEAN THERE, IS ONLY SO MUCH YOU CAN DO IN THE WAY OF DISCIPLINE SINCE THEY ARE NOT A MEMBER OF THE FLORIDA BAR, SO WHEN THEY GO BACK TO THEIR HOME STATE, WHAT CAN THE HOME STATE DO?

RECIPROCAL DISCIPLINE.

WHAT DO YOU MEAN BY RECIPROCAL DISCIPLINE? IN OTHER WORDS YOU SAY YOU CAN'T COME HERE AND PRACTICE, SAY, ARBITRATION ANY MORE? AS A DISCIPLINE ? WHAT DO THEY SAY IN THE HOME STATE? I AM TRYING TO GET SOME IDEA OF WHAT YOU MEAN BY RECIPROCAL DISCIPLINE.

IN OTHER WORDS , IF AN ATTORNEY COMMITS AN OFFENSE THAT IS DISBARABLE IN FLORIDA AND THE FLORIDA COURT SAYS YOU HAVE COMMITTED AN OFFENSE THAT IS DISBARABLE. WE ARE GOING TO DISBAR YOU , THEN THAT ATTORNEY'S HOME STATE GETS NOTICE OF THAT DISBARMENT AND RECIPROCITY

THE FLORIDA LAW COULDN'T SAY OR THE FLORIDA SUPREME COURT COULDN'T SAY WE ARE GOING TO DISBAR YOU , BECAUSE YOU ARE NOT A MEMBER OF THE FLORIDA BAR , SO THAT IS WHAT I AM HAVING A PROBLEM WITH , IS IF WE CANNOT SAY THAT YOU ARE DISBARRED , THEN WHAT COULD YOUR HOME STATE SAY ?

WELL , FLORIDA BAR HAS ASKED THIS COURT TO ADOPT RECIPROCAL DISCIPLINE, SO I ASSUME THIS COURT WILL BE ADOPTING RECIPROCAL DISCIPLINE, AND IF , IN FACT, THIS COURT ADOPTS IT AND AN ATTORNEY DOES SOMETHING WRONG, THEN THIS COURT WILL NOTIFY THE ATTORNEY'S HOME STATE AND RECIPROCAL DISCIPLINE WILL BE IMPOSED .

SO YOU ARE SAYING THAT WE WOULD SAY , IF IT IS CALIFORNIA, THAT THE ATTORNEY IS NOT ONLY BARRED FROM THIS STATE FROM EVER PRACTICING BUT SHALL BE DISBARRED IN THE STATE OF CALIFORNIA?

EXACTLY.

THAT WOULD BE

EXACTLY. EXACTLY. EXACTLY. RECIPROCAL DISCIPLINE. THIS IS ONE OF THE PROVISIONS.

AND CALIFORNIA WOULD HAVE TO DO IT.

YES.

HOW DO YOU UNDERSTAND THAT THE, YOU KNOW, CURRENTLY, IF YOU ARE A MEMBER OF THE BAR HERE , AND IT IS DISPUTED , REFEREE IS APPOINTED, YOU HAVE WITNESSES, ET CETERA, AND THE REFEREE MAKES FINDINGS OF FACT , ET CETERA , HOW WOULD THAT HAPPEN TO A NONMEMBER OF THE FLORIDA BAR , THAT THERE IS AN ACCUSATION OF IMPROPER CONDUCT?

THE SAME WAY THAT IT WOULD HAPPEN TO A MEMBER OF THE FLORIDA BAR. A COMPLAINT WOULD BE MADE , AN INVESTIGATION WOULD BE CONDUCTED, A HEARING WOULD BE MADE , AN OPPORTUNITY FOR DEFENSE WOULD BE PROVIDED , A DECISION WOULD BE RENDERED , APPEAL RIGHTS WOULD BE PROVIDED, AND THEN THE SAME PROCESS WOULD BE APPLIED FOR OUT-OF-STATE ATTORNEYS AS IN-STATE ATTORNEYS. IT IS JUST LIKE IF SOMEONE CAME INTO THIS STATE AND COMMITTED A CRIMINAL OFFENSE , THIS STATE HAS JURISDICTION OVER THEM.

IT IS A DIFFERENT STRUCTURE. WHAT YOU ARE SAYING IS THE SAME STRUCTURE HERE , REFEREE WOULD BE APPOINTED.

EXACTLY .

TRIAL, FOR LACK OF A BETTER WORD HERE.

EXACTLY. EXACTLY. AND THIS IS WHAT THE ABA HAS PROPOSED . AND THIS IS WHAT THE FLORIDA BAR HAS, ALSO , PROPOSED THAT THIS COURT ADOPT , SO THE CONCERNS ABOUT DISCIPLINE OF OUT-OF-STATE ATTORNEYS, IS GOING TO BE ADEQUATELY MET BY THE PROPOSALS BEFORE THIS COURT .

I GUESS PART OF THAT RECIPROCITY RULE IS THAT WE WOULD ACCEPT THE SUSPENSION OR DISBARMENT OF FLORIDA ATTORNEYS IN OTHER STATES.

YES.

DON'T WE HAVE TO FEEL COMFORTABLE THAT OTHER STATES HAVE SIMILAR DUE PROCESS REQUIREMENTS , BEFORE SUSPENSION OR DISBARMENT, BEFORE WE CAN DO THAT?

YES. I AM VERY COMFORTABLE WITH THAT.

I AM SURE YOU ARE COMFORTABLE. DON'T WE HAVE TO BE COMFORTABLE?

WELL, I THINK DUE PROCESS IS CONSTITUTIONALLY REQUIRED IN BAR ADMISSION AND DISCIPLINE PROCEEDINGS, SO I THINK

MAYBE, PER HAPS, AND I DON'T KNOW IF THIS IS TRUE AT ALL, BUT MAYBE WE GIVE MORE PROCESS THAN SOME STATES DO. MAYBE SOME STATES DON'T HAVE AN OPPORTUNITY FOR A TRIAL BEFORE A REFEREE WHO IS A JUDGE IN THE STATE. MAYBE IT IS A TWO- YEAR LAWYER. I DON'T KNOW. I AM JUST NOT SURE. DON'T WE HAVE TO BE COMFORTABLE THAT THEY HAVE SIMILAR KINDS OF DUE PROCESS RIGHTS IN THOSE STATES , AND IT HAS TO BE EVERY STATE .

WELL , YOUR HONOR

THE FLORIDA BAR ALREADY HAS A RULE THAT SAYS, IF SOMEBODY IS DISBARRED , DISCIPLINED

IN ANOTHER STATE, THAT THAT WILL BE A PRIMA FACIE CASE FOR DISBARMENT OR DISCIPLINE IN THE STATE. IS THAT NOT CORRECT?

YES. YES. BUT TO ANSWER YOUR QUESTION, YOUR HONOR, EVERY STATE THAT I HAVE BEEN IN, HAS THE SAME DUE PROCESS RIGHTS FOR ATTORNEYS, AND I HAVE BEEN IN SEVERAL STATES. THIS COURT, TODAY, IN DECIDING THE ISSUES BEFORE IT, IS ESSENTIALLY DECIDING A QUESTION OF LAW THAT AFFECTS NOT ONLY FLORIDA CITIZENS BUT CITIZENS IN ALL OF THE OTHER STATES, AND INDEED, PEOPLE IN THE ENTIRE HEMISPHERE, THIS IS A WEIGHTY RESPONSIBILITY. I AM HERE TODAY, TO ASK THIS COURT TO ADOPT THE ABA MJP'S CONCLUSION, THAT OUT-OF-STATE ATTORNEYS THAT HAVE GRADUATED FROM AN ABA ACCREDITED LAW SCHOOL AND HAVE PRACTICED LAW SUCCESSFULLY SOMEWHERE ELSE FOR FOUR YEARS WITHOUT BLEMISH TO THEIR RECORD, BE GRANTED A WAIVER FROM TAKING THE FLORIDA BAR EXAMINATION. I AM NOT ASKING THIS COURT TO NOT HAVE THE ATTORNEY SUBMIT THE GOLD STANDARD MORAL CHARACTER APPLICATION.

IS THAT AN AUTHORITY OF A WE ARE DOING?

YOU JUST SAID, I DIDN'T KNOW THIS WAS WITHIN THE SCOPE OF WHAT WE WERE DISCUSSING TODAY. I DIDN'T KNOW THERE WAS ANY ALTERNATIVE RULE PROPOSAL THAT WOULD, WHAT YOU ARE SAYING IS OPEN UP THE PRACTICE OF LAW IN FLORIDA TO EVERYBODY. IS THAT WHAT YOU ARE PROPOSING TODAY?

NO. I AM NOT SUGGESTING THAT, YOUR HONOR. FIRST OF ALL, IT IS BEFORE THIS COURT TODAY, SKARL LY IN THE AMERICAN COURT BOOK COUNSELS ASSOCIATION. IT IS IN THE PLEADINGS THAT HAVE BEEN SUBMITTED TO THIS COURT FOR THE COURT TO ADOPT THE ABA MJP CONCLUSIONS, AND IT IS AN IMPORTANT ISSUE THAT WAS ADDRESS ED.

WHICH WOULD ALLOW ANY LAWYER WHO HAS PRACTICING IN A STATE AFTER FOUR YEARS OF PRACTICE IN THAT STATE, TO PRACTICE WITHOUT RESTRICTION IN EVERY OTHER STATE IN THE COUNTRY. NOW, I THOUGHT THAT WAS WHAT, IS THAT WHAT YOU ARE SUGGESTING?

NOT QUITE, YOUR HONOR.

O KAY.

WHAT I AM SAYING AND WHAT THE AMERICAN BAR ASSOCIATION HAS SAID, FOR EXAMPLE, IF WE HAVE AN IN-HOUSE COUNSEL THAT MAY GET TRANSFERRED FROM NEW YORK TO FLORIDA TO NEW MEXICO TO OHIO, WE CAN'T HAVE THAT LAWYER TAKING A YEAR OFF, TO TAKE A BAR EXAM, EVERY TIME HE GETS TRANSFERRED. THIS LAWYER MAY BE THE BEST PERSON TO REPRESENT THIS COMPANY. RATHER THAN CREATE A BOTTLENECK IN THE ADMISSION PROCESS, ABA MJP CAME TO THE CONCLUSION THAT EXPERIENCE PRACTICING AS AN ATTORNEY, IS A SUBSTITUTE EQUIVALENT TO TAKING A BAR EXAMINATION. THE SECOND PART OF YOUR QUESTION, YOUR HONOR, IS THAT WE ARE NOT HERE, ASKING ALL THE COURTS TO ADMIT ALL THE ATTORNEYS. WE ARE ONLY ASKING ATTORNEYS THAT COME INTO THE STATE ON A REGULAR BASIS, THAT HAVE A NEED TO BE HERE ON A REGULAR BASIS, TO BE ADMITTED, BASED ON FULL FAITH AND CREDIT ADMISSION IN ANOTHER STATE. I CAN GIVE THIS COURT

AGAIN, I GUESS YOU ARE SAYING THAT, IF A, YOU ARE ASKING FOR A WAIVER OF THE FLORIDA BAR EXAMINATION REQUIREMENT FOR LAWYERS. I JUST WANT TO MAKE SURE.

RIGHT.

NOT THAT WE SHOULD BE TWEAKING THE ARBITRATION RULE, AND THAT IS YOUR POSITION.

YES, YOUR HONOR. THIS WAS WHAT - -

YOU ARE OUT OF YOUR NINE MINUTES OF TIME.

I AM ALREADY .

IT TOOK , IT SEEMS SHORT. JUSTICE LEWIS , DID YOU HAVE A QUESTION YOU WANTED TO ASK?

THANK YOU, YOUR HONOR.

MR . KROSSCHELL , ALWAYS WITH INSIGHTFUL COMMENTS.

THANK YOU. MY NAME IS STEVE KROSSCHELL , AND I REPRESENT MY LAW FIRM GODDMAN AND NCKVASIL. WE DO ARBITRATION ANSWER SECURITIES ISSUES NATIONWIDE. I HAVE DONE THIS FOR TEN YEARS AND I WOULD SAY WE REPRESENT PEOPLE IN CLOSE TO ALL 50 STATES , AND SO THE RULE THAT IS PROPOSED HERE DOESN'T DIRECTLY AFFECT US, BECAUSE WE ARE FLORIDA ATTORNEYS. BUT THE NATURE OF THE BEAST IS THAT, WHEN ONE STATE ERECTS BARRIERS TO ENTRY , THEN OTHER STATES RETALIATE , AND SO THAT WOULD BE BAD FROM OUR POSITION , IF EVERY STATE HAS A "THREE STRIKES" AND YOU ARE OUTRULE, WHICH IS IF EVERY STATE HAD THREE STRIKES AND YOU ARE OUT, RULE , WHICH IS MY POSITION HERE.

YOU PROPOSE TO USE A DIFFERENT TRIGGER POINT?

PARDON ME?

WAS ONE OF YOUR PROPOSALS TO USE A DIFFERENT TRIGGER POINT?

YES.

BUT WHAT ABOUT JUSTICE LEWIS 'S OBSERVATION THAT YOU COULD STILL BE HAVING EVERYTHING UP UNTIL THE ARBITRATION AND IT WOULD BE A SUBSTANTIAL PRESENCE IN THE STATE. HOW WOULD YOU ADDRESS THAT?

WELL , I AM NOT QUITE SURE , TO ME, ONE OF THE POINTS THAT, WE REPRESENT PEOPLE IN OTHER STATES BUT WE DON'T HARDLY EVER GO THERE . WE MIGHT HAVE SOME CASES IN MICHIGAN, BUT WE DIDN'T ACTUALLY DO THE ARBITRATION. I SAT IN MY OFFICE IN CLEARWATER AND NEVER LEFT THE STATE , AND WHY IS THAT A BAD THING ?

LET ME ASK JUST THIS QUESTION. AFTER BEING PART OF THIS ORGANIZATION, THIS LEGAL PROFESSION FOR OVER 35 YEARS , THE ONE THING THAT I SEE HAPPENING, IS THAT BUSINESS CHANGES START DEMANDING PROFESSIONAL AND ETHICAL CHANGES.WHY IS IT THAT BUSINESS , BUSINESS CONCERNS , SHOULD OVERSHADOW FUNDAMENTAL COMPETENCE, FUNDAMENTAL ETHICS THAT A GROUP THAT JOINS TOGETHER AND IN GOOD FAITH BELIEVES THIS IS NEEDED, TO PROTECT THE CITIZENS OF THE STATE , THAT THAT SHOULD BE DISREGARDED , BECAUSE WE HAVE A BUSINESS THAT APPROACHES IT DIFFERENTLY? HELP ME UNDERSTAND THAT .

WELL , YOU KNOW , IT IS,MAYBE I CAN ANSWER BY GIVING AN EXAMPLE. WE IN CLEARWATER, THERE WAS A SCUMBAG OFFERING WHICH WAS RUN ONLY A FEW MILES FROM OUR OFFICE, BUT THE OFFICE WAS THE, THE SCAM WAS RUN NATIONWIDE, AND SO WE KNEW A LOT ABOUT THAT SCAM BECAUSE IT WAS BASICALLY LOCAL FOR US, BUT WE HAD A LOT OF , REPRESENTED A LOT OF PEOPLE NATIONWIDE , BECAUSE WE WERE THE EXPERTS , AND IN FACT WE WERE THE ONLY ONES THAT DID THOSE CASES. IN SOME WAYS THEY ARE DIFFICULT CASES, AND I THINK IT IS FAIR TO SAY IF WE DIDN'T DO THEM, NOBODY WOULD HAVE DONE THEM, AND SO THE PURPOSE OF THE UNAUTHORIZED PRACTICE OF LAW RULES , IS TO PROTECT THE PUBLIC.WELL, IN THESE KINDS OF CASES, HOW IS IT PROTECTING THE PUBLIC , WHEN WE REPRESENT LOTS OF 80-YEAR-OLD PEOPLE ? I HAVE A DIFFICULTY THEY HAVE A DIFFICULTY FINDING A ATTORNEY. WE ARE WILLING TO REPRESENT THEM.

WE ARE TOLD ALL THE TIME WE HAVE TOO MANY LAWYERS AND ALL OF THEM RUNNING FOR THE SAME CASES, SO IT IS AN INTERESTING COMMENT.

I UNDERSTAND THAT BUT I THINK IT IS FAIR TO SAY IN THAT PARTICULAR INSTANCE, THESE PEOPLE WOULDN'T HAVE GOTTEN ANY LAWYER. THIS IS NOT THE MATTER OF GETTING THE BEST LAWYER. THIS IS THE ISSUE OF GETTING A LAWYER.

SO IS THE NEXUS, YOU THINK THAT, IN THAT SITUATION, IF YOU WERE, IF THE SAME THING HAD OCCURRED AND, SAY, IT WAS CALIFORNIA THAT HAD THE OFFERING, CALIFORNIA LAWYER, THERE WOULD BE, DO YOU AGREE WITH THE NEXUS REQUIREMENT THAT HAS BEEN PLACED?

WELL, I VIEW THE, I AGREE WITH THE NEXUS REQUIREMENT, BUT I VIEW THE NEXUS REQUIREMENT SOMEWHAT MORE BROADLY THAN HAS BEEN SAID HERE. HERE AGAIN, I THINK IT IS FAIR THAT WE KNOW A LOT ABOUT SECURITIES ARBITRATION. FOR ME, AS I READ THE ABA MODEL RULE AND THE COMMENT OF THE MODEL RULE, IT WOULD BE SUFFICIENT TO HAVE AN EXPERTS IN SECURITIES ARBITRATION.

WHAT DO YOU THINK ABOUT

FOR THE NEXUS REQUIREMENT.

WHAT DO YOU THINK ABOUT THE COMPROMISE APPROACH, WHERE WE HAVE A NUMERICAL LIMITATION, BUT THAT LIMITATION CAN BE EXCEEDED, IF ONE APPLIES TO THE FLORIDA BAR AND SUBMITS REASONS WHY THIS LAWYER NEEDS TO REPRESENT THE CLIENT IN ALL THESE CASES, AS IN YOUR EXAMPLE. IF IT WERE AN OUT-OF-STATE LAWYER COMING INTO FLORIDA SAYING WE ARE THE ONLY PEOPLE THAT DO THESE CASES ACROSS THE COUNTRY, WE CURRENTLY HAVE TEN CLIENTS IN FLORIDA AND TEN COUNTIES, AND WE NEED TO REPRESENT THESE PEOPLE. THEY WANT US TO REPRESENT THEM. THERE IS NOBODY ELSE THAT DOES THIS. AND THE FLORIDA BAR TO GRANT YOU PERMISSION IN THAT CASE.

WELL, I THINK THAT WOULD BE A COMPROMISE. MY PERSONAL PREFERENCE AND MY POSITION IS ON THAT, IS THAT THAT COMPROMISE IS NOT NECESSARY.

HOW IS IT DIFFERENT WOULD YOU SAY OR IS IT DIFFERENT, IN THE PRACTICE OF LAW IN THE COURTROOM, THE PRO HAC VICE SITUATION? YOU KNOW, YOU STILL, AGAIN, THIS COULD HAVE BEEN THE FORUM OF CHOICE MIGHT HAVE NOT BEEN ARBITRATION BUT COULD HAVE BEEN THAT YOU WOULD HAVE BEEN

I THINK IT IS FAIR TO SAY ARBITRATION IS A LOT DIFFERENT FROM COURT CASES, AND AT LEAST HALF OF THE REASON WHY YOU WANT A FLORIDA LAWYER IN A FLORIDA COURT CASE IS THE FLORIDA PROCEDURES AND THAT THICK BOOK OF RULES OF PROCEDURES THAT WE HAVE, BUT YOU KNOW, NONE OF THOSE RULES APPLY IN AN ARBITRATION.

BUT IF THEY ARE GOOD ENOUGH FOR THREE CASES, THEY HAVE TO KNOW THEM FOR THREE CASES.

IF YOU DON'T NEED TO KNOW THE RULES OF PROCEDURE IN AN ARBITRATION, IN THREE CASES, YOU DON'T NEED TO KNOW THEM IN ANY OF THOSE RULES, ONLY IN ONE CASE. WHAT COUNTS IS THE ARBITRATION RULES, AND I THINK SUBSTANTIVELY, THE SAME THING APPLIES, AT LEAST IN WHAT I DO STRICTLY IS ARBITRATION. THE BASIC THING IN SECURITIES ARBITRATION CASE IS IN A TYPICAL SECURITIES ARBITRATION CASE, IS WHETHER A MISREPRESENTATION OR NOT, AND I KNOW OF NO SITUATION WHERE ONE STATE SAYS SOMETHING IS A LIE IS NOT A LIE, A LIE IS A LIE AND OTHER STATES SAY A LIE IS A LIE. THE LAW IS THE SAME IN ALL THE STATES. THERE ARE SOME VARIATIONS. I THINK THE BIG VARIATION IS PROBABLY STATUTE OF LIMITATIONS, BUT

OTHER THAN THAT IN MY EXPERIENCE , IT IS THE SAME AND WAY MORE IMPORTANT TO BE WAY MORE FAMILIAR WITH THE ARBITRATION RULES THAN FAMILIAR WITH THE FEDERAL SECURITIES LAW AND FAMILIAR WITH THE SECURITIES AND EXCHANGE COMMISSION PRONOUNCEMENTS, THAN IT IS TO KNOW THE INDIVIDUAL STATE'S LAWS, WHICH IS BASICALLY THE SAME EVERYWHERE, SO MY RESPONSE TO THAT IS THAT ARBITRATION IS A LOT DIFFERENT FROM COURT CASES, AND THAT IS WHY EVERYBODY WOULD WHAT ARE THE FEDERAL COURTS DOING IN FLORIDA , IF , DO YOU KNOW WHAT THEY DO WITH PRO HAC VICE ADMINISTRATION ?

WHAT DO THEY DO? I MEAN, THEY HAVE A PRO HAC VICE PROCEDURE , AND THEY BASICALLY GRANT IT ALL THE TIME. WE DO A LOT OF FEDERAL COURT CASES.

SO THEY DON'T LIMIT THE

WELL, THEY CAN'T, BECAUSE THE FEDERAL APPELLATE COURTS HAVE SAID THAT THE ARBITRARY LIMITATION TO THREE IS NOT PROPER. CERTAINLY IN A CRIMINAL CASE, YOU HAVE GOT DELETING DNA - - YOU HAVE GOT THE LEADING DNA EXPERT IN THE FIELD , AND THIS COURT DOES A LOT OF DEATH ROW CASES. ARE YOU REALLY GOING TO SAY THAT LEADING DNA PERSON CAN'T COME HERE AND REPRESENT THAT PERSON ON DEATH ROW BECAUSE HE HAS ALREADY BEEN HERE THREE TIMES? YOU DON'T HAVE THE DISCRETION TO DO THAT? I MEAN THAT WOULD BE EXTREMELY BAD , A SERIOUS SIXTH AMENDMENT ISSUE THERE. SO THAT , GETTING , TALKING A LITTLE BIT ABOUT JUSTICE CANTERO 'S POINT ABOUT THE VAGUENESS OF IT, YOU KNOW , HE IS RIGHT. IT IS KIND OF VAGUE . BUT YOU KNOW, LOTS OF TIMES WHEN YOU HAVE A JURY THAT PRESENTS FACTS TO A JURY, THE JURY SOMETIMES SAYS GUILTY AND SOMETIMES THEY SAYING IN, BASED ON THE SAME FACTS SAY NOT GUILTY, BASED ON THE SAME FACTS. WHAT WE SAY IS IT IS BETTER TO HAVE SOME VAGUENESS AND UNCERTAINTY, BECAUSE PEOPLE VIEW FACTS SOMEWHAT DIFFERENTLY , THAN IT IS TO HAVE SOME ARBITRARY RULE WHICH OPERATES UNJUSTLY. SO I MEAN , SOMETIMES YOU KIND OF HAVE TO ACCEPT THESE THINGS.

CHIEF JUSTICE: IT IS IRONIC THAT , IN, WHEN ALL OF THIS IS SAID AND DONE, YOU ARE THE ONLY PERSON HERE , THE BAR , THE ONLY PERSON OPPOSING THIS , THAT IS A REPRESENTATIVE OF SOMEBODY WHO MIGHT BE A VICTIM OF SOMETHING , AND I SORT OF INTERESTING TO KNOW WHETHER ANY OTHER OF THE TRIAL LAWYER SECTION OR , HAVE EVER, THEY DON'T SEEM TO BE PRESENT IN THIS DISPUTE. IT IS REALLY AN OBSERVATION. I THANK YOU FOR REPRESENTING THE OTHER VIEW. WITH THAT, THOUGH, YOUR TIME IS UP .

COULD I SAY JUST ONE MORE THING?

CHIEF JUSTICE: SURE.

THAT STATUTE IS \$ 100 BUCKS VERSUS 250 , AND THE 100 BUCKS GOES TO THE COURT NOT TO THE BAR , AND IT DOESN'T APPLY TO ARBITRATIONS AND DOES APPLY TO COURT CASES, I THINK THERE IS SERIOUS NONTRIVIAL SEPARATION OF POWERS PROBLEMS THERE, SO THINK ABOUT THAT, WHEN YOU ADOPT A RULE WHERE THEY WANT , THE BAR WANTS 250 AND THE LEGISLATURE WANTS 100 , WHAT YOU ARE GOING TO DO ABOUT THAT, BUT I DO APPRECIATE YOUR TIME.

AS A POINT OF CORRECTION, WE DON'T GET THE MONEY. IT GOES INTO GENERAL REVENUE.

I KNOW THAT BUT IT GOES TO THE GENERAL REVENUE FUND , AND ALL PART OF THAT ARTICLE VII , OR ARTICLE V REVISION 7 PROBLEM. THANK YOU VERY MUCH .

CHIEF JUSTICE: WE HAVE GOT, THEN, REBUTTAL.

YOUR HONOR , , ONE OF THE THINGS - -

CHIEF JUSTICE: COULD YOU ADDRESS SOMETHING ABOUT WHERE THE FEDERAL APPEARANCES COME IN. IN OTHER WORDS, IS THAT WITHIN THE THREE, IF SOMEBODY IS IN FEDERAL COURT IN FLORIDA?

YOUR HONOR, I THINK THEY ARE ALL DIFFERENT. EACH OF THEM HAS, AS THE COURT KNOWS, WELL, EACH OF THEM HAS THEIR OWN MATTER OF PRACTICE, IN TERMS OF ADMISSION.

NO. I UNDERSTAND THAT, BUT IF YOU ARE, SO, FOR THE, BUT THEY ARE STILL OUT-OF-STATE LAWYERS. DOES THAT COUNT TO THE FLORIDA

I SEE WHAT YOU MEAN. IT WOULD COUNT.

IT WOULD BE THREE.

RIGHT. AN APPEARANCE IN AN US DISTRICT COURT WOULD COUNT AS ONE.

BUT WE CAN'T, IF THE DISTRICT, NO, IT DOESN'T.

MY EXPERT OR MY COUNSEL SAYS NO, IT DOESN'T.

I DON'T THINK WE CAN REGULATE WHAT OUT-OF-STATE LAWYERS DID IN FEDERAL COURTS IN FLORIDA.

I AM SORRY, YOUR HONOR. I WAS REACTING TO MS. HOLCOMB.

IS SOMEONE GOING TO ADDRESS, I DID HAVE A QUESTION ON THE INTERNATIONAL. IS SOMEONE ELSE GOING TO SPEAK?

MR. ASTIGRAGA.

I DIDN'T THINK WE HAD AUTHORITY TO LIMIT LAWYERS APPEARANCES IN FEDERAL COURTS.

MS. HOLCOMB CORRECTED ME. I JUST WANTED TO MAKE SURE THAT I LEFT THE COURT WITH THE IMPRESSION OF WHERE THE FOCUS OF THE PUBLIC'S JUSTICE ANSTEAD'S QUESTION AND MR. MAHER'S ADVOCACY OR RESPONSE, WAS THAT IN A SOPHISTICATED CLIENT, THAT ONLY THEIR INTEREST IS BEING PROTECTED. THIS RULE RULED REGARDING THAT IN 1969. THE PROTECTION OF THE PUBLIC IS ALL OF US. IT IS THE PROTECTION OF COURTS, THE SYSTEM OF JUSTICE AND OF ALL MEMBERS OF THE PUBLIC. IF, IN THE ONE CASE WHERE AN IN-HOUSE LAWYER IS REPRESENTING STOCKBROKERAGE COMPANY OVER AND OVER AND OVER AGAIN, LET'S NOT FORGET THAT THERE ARE OPPONENTS ON THE OTHER SIDE. THERE ARE PUBLIC INVESTORS WHO NEED PROTECTION. THEY ARE NOT BEING PROTECTED IN THAT CIRCUMSTANCE, WHERE THERE IS AN UNRESTRICTED ACCESS TO THE SYSTEM HERE IN THE STATE.

WHAT ABOUT MR. KROSSCHELL'S, IT IS NOT A HYPOTHETICAL BUT A REAL LIFE SITUATION?

WELL, THAT, THERE WERE NO LAWYERS WILLING TO UNDERTAKE THE LEGAL NEEDS OF CONSUMERS IN A CASE WHERE THEY GOT DEFRAUDED? I DON'T KNOW THE SITUATION. YOUR HONOR, THERE ARE A LOT OF LAWYERS OUT THERE WHO UNDERTAKE A PROBATION BASIS, WHERE A CLIENT CAN'T AFFORD THAT THERE ARE A LOT OF LAWYERS, INCLUDING MY FIRM, THAT DOES CONTINGENT WORK, THAT TAKE A RISK OF UNDERTAKING.

WHAT ABOUT THE OTHER BASIS OF HIS APPEARANCE HERE, THOUGH, WHERE HE SAID THAT HE FELT IF HE DIDN'T SPEAK UP HERE WHERE THESE RESTRICTIONS MAY APPLY, THAT USUALLY WHAT HAPPENS IS THAT OTHER JURISDICTIONS, THEN, ALSO, WILL ADOPT THOSE RESTRICTIONS, AND WHEN HE IS IN THAT POSITION OF TRYING TO ADVOCATE AND THEY ARE THE ONLY ONES

AVAILABLE, AND THEY ARE THE MOST KNOWLEDGEABLE. I STILL WOULD LIKE TO Y  
RESPOND TO THE BUSINESS LAW SECTION'S POSITION HERE, IN THAT WE ARE TAKING A STEP  
BACKWARDS, WITH REFERENCE TO THE PRO HAC VICE RULE, AND NUMBER TWO, ABOUT THIS  
ISSUE OF CLIENTS NOT HAVING ACCESS TO THE BEST SERVICE THEY CAN GET. IF YOU HAD A ME  
DICAL PROBLEM, AND OBVIOUSLY A SERIOUS ISSUE, YOU CAN GO ANYWHERE IN THIS  
COUNTRY AND HAVE THE VERY BEST MEDICAL SERVICE AVAILABLE, BUT IF YOU HAVE A LEGAL  
PROBLEM, THAT IS NOT TRUE. THAT IS THAT THE VERY BEST LAWYER ON THAT ISSUE MAY WELL  
BE SOMEPLACE ELSE AND NOT ADMITTED HERE IN FLORIDA. AND YOU ARE NOT GOING TO BE  
ABLE TO GET THE VERY BEST SERVICE. SO IS THIS BECOMING AN ANACRONISM, IN  
OTHER WORDS, AS WE ARE TAKING BABY STEPS, SHOULD WE TAKE, PERHAPS, MORE LIBERAL  
STEPS NOW, AS THE AB A HAS DONE?

AN ADMISSION BY MOTION, YOUR HONOR? NO. I JUST DON'T THINK THE TIME HAS COME FOR  
THAT, UNTIL THERE IS A STANDARDIZATION OF THOSE THINGS WHICH I CONTINUE TO GO BACK  
TO, AND THAT IS THE ADMISSION PROCESS, WHICH INCLUDES THE BAR AS WELL AS THE  
CHARACTER AND FITNESS.

LET ME ASK YOU ABOUT A COMPROMISE POSITION, AS I ASKED, I THINK, MR. MAHER. WHAT IF  
WE DID HAVE A RULE AS YOU PROPOSE, THAT IS A THREE OR WHATEVER IT IS, BUT THEN A  
LAWYER MAY PETITION THE BAR NOT A JUDGE, TO BE ADMITTED MORE THAN THAT FOR  
EXTRAORDINARY REASONS?

YOUR HONOR, I AM NOT GOING TO PULL OUT A BOX OF KLEENEX IF THAT IS WHAT THE COURT  
DOES IN ITS OPINION. I THINK THERE DOES NEED TO BE SOME ULTIMATE LIMIT, HOWEVER, SO  
THAT, A GAIN, THE GENERAL PRACTICE AS OPPOSED TO THE TEMPORARY PRACTICE, ARE  
WEIGHTED, SO I THINK THE COURT USED, YOUR HONOR, IN YOUR SUGGESTION, UP TO FIVE. I  
THINK OBVIOUSLY THAT IS A COMPROMISE, WHICH I THINK HAS SOME JUSTIFICATION. AND I  
THINK THAT WOULD BE FINE.

WHAT ABOUT THE STEP BACK THOUGH? IN OTHER WORDS WOULD YOU ADDRESS THAT? IN  
OTHER WORDS SAYING THAT WE ARE GOING FROM HAVING A RULE THAT ALLOWS SOME  
DISCRETION WITH THE JUDGE TO MAKE SOME JUDGMENT ABOUT THIS, OR EVEN THE BAR, BUT  
NOW IT IS A THREE STRIKES AND YOU ARE OUT, THREE APPEARANCES, YOU KNOW, WHEN  
THERE IS THE DEMAND FOR ARBITRATION, AND YOU ARE OUT. IS IT A STEP BACKWARDS?

I DON'T THINK SO, YOUR HONOR. IN FACT, I THINK WHAT IT DOES IS IT, NOW, CREATES A SYSTEM  
WHERE PEOPLE KNOW THAT, IF THEY GO TO ONE COURT OR ANOTHER, IT IS THREE TIMES WITHIN  
A 365-DAY PERIOD. IT IS NOT A THREE STRIKES YOU ARE OUT. AND I APPRECIATE THAT. THAT IS  
REALLY KIND OF A RED HERRING LABEL ON THIS. BUT

I JUST WANT, IF YOU WANT YOUR COLLEAGUE TO ADDRESS THIS OTHER ISSUE, BECAUSE WE  
REALLY WENT OVER TIME, AND WE HAVE ONLY ABOUT A MINUTE LEFT. I DON'T WANT TO CUT  
OFF JUSTICE ANSTEAD, BUT I JUST WANT, WE REALLY ARE WAY OVER OUR TIME.

THAT IS YOUR CALL.

WELL, YOUR HONOR, IN DUE DEFERENCE I AM VERY POLITE, SO I AM REALLY IN AN OBSTINATE  
CHOICE HERE. AN OBSTINATE CHOICE HERE. MR. ASTIGARRAGA DID PREPARE A LOT.

WE HAD DISCRETION AND NOW THERE IS NO DISCRETION SO I THINK THAT IS SELF-EVIDENT.

THAT IS SELF-EVIDENT. NO. ONE THING I WOULD LIKE TO DO IN RESPONSE, IS THERE HAS BEEN A  
PUBLIC SURVEY OF ALL OF THE JURY DICTIONS AND HOW THEY HAVE FALLEN ON THE  
JURISDICTIONS AND HOW THEY HAVE FALLEN ON THE VARIOUS PERMUTATIONS OF THESE VARIOUS  
ISSUES. PERMUTATIONS OF THESE VARIOUS ISSUES.

JUST FILE A SUPPLEMENTAL , IF YOU WILL.

I WILL , YOUR HONOR .

CHIEF JUSTICE: YOU MAY SEE A RED LIGHT GO ON BUT WE WILL AT LEAST LET YOU GET OUT YOUR NAME AND RESPOND TO JUSTICE LEWIS'S QUESTION.

YOUR HONOR, I HAVE A VERY LONG TIME. MY NAME IS JOSE ASTIGRAGA : I WAS PROMISED TEN MINUTES. I WILL BE QUICK.

JUSTICE LEWIS HAD A SPECIFIC QUESTION .

HE IS PREPARED .

THANK YOU , YOUR HONORS AND I WILL BE BRIEF , BUT PARTICULARLY I HAVE TAILORED MY COMMENTS TO FOLLOW UP ON JUSTICE CANTERO'S QUESTION ABOUT THE INTERNATIONAL LAW SECTION. WE ARE SIMPLY HERE TO ADDRESS THE TREATMENT OF INTERNATIONAL ARBITRATION. WHATEVER GOOD REASONS OR NOT TO DEAL WITH DOMESTIC ARBITRATIONS AND PRO HAC VICE, THE BAR IS NOT HERE TO ADDRESS, EXCEPT TO THE EXTENT THAT WE WOULD BE PAINTED WITH THE SAME BRUSH. HAVING THEN SAID THAT , I WOULD POINT OUT TO THE COURT THAT THERE IS UNANIMITY AMONG EVERYONE HERE IN THE COURTROOM INCLUDING THE BAR THAT, THE TREATMENT GIVEN TO INTERNATIONAL ARBITRATION IS APPROPRIATE AND PROPER, AND WE WOULD ASK THE COURT TO BEAR THAT IN MIND. TO ADDRESS JUSTICE CANTERO'S QUESTION OF T HE EQUAL JUSTICE CAN JUSTICE CANTERO 'S QUESTIONS WITH REGARD TO E QUAL REPRESENTATION, DEALING ON THE BASIS OF RESIDENCY , THE COURT IN EFFECT TREATED IT AS WHAT IS CALLED A HEIGHTENED LEVEL OF SCRUTINY. HOWEVER IN THIS CASE , THE DISTINCTION THAT IS BEING MADE IS THE NATURE OF THE PROCEEDING. WE ARE SIMPLY TALKING ABOUT INTERNATIONAL ARBITRATION VERSUS OTHER TYPES OF PROCEEDINGS, AND I WOULD SUBMIT THAT , ACCORDING TO THE LAW , THE TREAT, THE ANALYSIS THERE IS SIMPLY A RATIONAL BASIS ANALYSIS, AND I SUBMIT THAT , IN ADDITION

WHAT IS THE RATIONAL BASIS?

I WILL DEAL WITH IT IMMEDIATELY , YOUR HONOR , AND I WOULD SUBMIT THAT , IN ADDITION TO WHATEVER ARGUMENTS MAY BE SAID RELATIVE TO DOMESTIC ARBITRATIONS THAT WOULD ALSO APPLY TO INTERNATIONAL ARBITRATIONS, THERE ARE SPECIAL CONSIDERATIONS. IN ORDER TO ADDRESS WHAT ARE THE RATIONAL BASIS , YOUR HONORS, I WOULD ASK , POINT OUT TO THE COURT THAT WE ARE DEALING AS THE BAR FRAMED ITS OWN PETITION, WITH THE ISSUE OF BALANCE , AND THEREFORE IN ORDER TO ADDRESS BALANCING, THE NEED TO PROTECT THE PUBLIC AGAINST THE NEED OF CLIENTS TO HAVE THE ABILITY TO PICK THE RIGHT LAWYER FOR THE IR PROCEEDINGS, AND THAT IS WHAT HANGS IN THE BALANCE HERE. AND WE SUBMIT THAT THEY HAVE STRUCK THE RIGHT BALANCE IN , FOR INTERNATIONAL ARBITRATION .

MY UNDERSTANDING , A GAIN , THAT IF THIS WAS IN THE COURTS, THAT FLORIDA IS SEEN FOR INTERNATIONAL ARBITRATIONS, AS A VENUE PLACE TO HOLD HEARINGS.

THAT IS AS A CONVENIENT PLACE TO HOLD HEARINGS.

THAT IS CORRECT, YOUR HONOR , AND IN FACT I HAD SIX GROUNDS, IF YOU WOULD , AND ONE IS PRECISELY THAT. TO UNDERSTAND THE ANALYSIS THAT WE ARE DEALING WITH, THIS IS A REAL CASE THAT I HAVE DEALT WITH IN WHICH A SITUATION OF A SCANDANAVIAN COMPANY CONTRACTED WITH A PERUVIAN COMPANY, CONTRACTED TO DO WORK IN VENEZUELA AND THE PROCEDURE IS INTERNATIONAL AND THAT IS THE LAW THAT APPLIES. MIAMI IS A MORE CONVENIENT PLACE TO MEET. WE HAVE GOT BETTER CONNECTIONS. LET'S JUST HAVE THE HEARINGS

THERE.

WHAT IS THE CRITERION. WOULD YOU GIVE US THE ELEMENTS TO QUALIFY AS INTERNATIONAL.  
OF COURSE.

SO THAT WE ARE ALL CLEAR EXACTLY WHAT THAT INVOLVES.

ABSOLUTELY, YOUR HONOR. YOUR HONOR, IT IS SET FORTH IN THE COMMENT AND I WILL READ IT MOMENTARILY BUT JUST KNOW WHERE IT CAME FROM. IT IS BASED ON THE DEFINITION THAT IS SET FORTH IN FLORIDA INTERNATIONAL ARBITRATION ACT AND THAT IS WHERE IT IS TAKEN FROM, AND THE DEFINITION IS ESSENTIALLY SEVERAL CATEGORIES. ONE, WHERE THERE IS A, THE ARBITRATION SPEAKS BETWEEN TWO OR MORE PERSONS, ONE OF WHOM IS A FOREIGNER, IN OTHER WORDS A NONRESIDENT THAT, TWO OR MORE PERSONS, EVEN THOUGH THEY MAY BE RESIDENTS OF THE U.S., HOWEVER, THAT THERE IS, INVOLVES PROPERTY OUTSIDE OF THE UNITED STATES. IT RELATES TO A CONTRACT THAT IS GOING TO BE PERFORMED OUTSIDE THE UNITED STATES THAT INVOLVES AN INVESTMENT OUTSIDE THE UNITED STATES, AND THE FINAL CATEGORY, YOUR HONOR, IS WHERE WE HAVE A FOREIGN GOVERNMENT THAT IS INVOLVED IN THE ARBITRATION. AGAIN, NOT A SITUATION, YOUR HONOR, IN WHICH WE ARE DEALING WITH FLORIDA TYPE ISSUES.

IS ANY OF THIS ENFORCEABLE IN FLORIDA? IN OTHER WORDS, IF THERE IS, IF THERE IS A JUDGMENT ENTERED.

AN AWARD IS ENTERED.

WHERE DOES IT GO. WHERE DOES IT GO?

YOUR HONOR THAT, IS THE BEAUTY OF IT, TO THE EXTENT THAT WE ARE DEALING WITH SOMETHING OTHER THAN ARBITRATION, WE ARE IN CONVENTIONAL REGULAR RULES OF COURT, AND A FLORIDA LAWYER WOULD HAVE TO FILE A PETITION TO CONFIRM AN AWARD OR TO DO SOMETHING LIKE THAT. IT WOULD AND FLORIDA LAWYER SUBJECT TO THE COURT RULES, AND THERE IS NO CONTEMPLATION THAT SOME FOREIGN LAWYER IS GOING TO APPLY PRO HAC VICE TO TRY TO DOMESTICALLY INDICATE AN AWARD ON THEIR OWN. IT IS SIMPLY THE ARBITRATIONAL PROCESS WHICH IS COMPLETELY ASIDE AND AS I SAID, IN A WAY THIS IS MORE DEALING WITH HOTEL ROOMS WITH, REALLY, THAN IT IS WITH THE PRACTICE OF LAW IN FLORIDA.

BUT FLORIDA WOULD GET INVOLVED, IF THE AWARD HAD TO BE CONFIRMED.

IF THE AWARD HAD TO BE CONFIRMED. BUT I WILL INDICATE TO THE COURT, THAT FOR EXAMPLE, THE REASON THAT IT IS IMPORTANT TO HAVE A LAWYER, SAY, FROM THE PLACE WHERE THE OTHER PARTY IS FROM, IS BECAUSE THE ENFORCEMENT OF THE AWARD WILL TAKE PLACE TYPICALLY, THERE, IN OTHER WORDS, THE ASSETS, THIS AWARD IS SUBJECT TO ENFORCEMENT, ACCORDING TO AN INTERNATIONAL TREATY. THAT IS A SECOND OF THE CONSIDERATIONS THAT DISTINGUISHES THIS, AND THAT IS THAT IT IS SUBJECT TO INTERNATIONAL TREATIES. A JUDGMENT FROM A FLORIDA COURT IS SUBJECT TO THE FULL FAITH AND CREDIT CLAUSE AND WILL TAKE IT TO ANOTHER STATE. HOWEVER, AWARD WHICH IS COMPLETELY OUTSIDE OUR COURT, IS SUBJECT TO AN INTERNATIONAL TREATY, THAT IS WHY THE SPECIALIZED EXPERTISE THAT OFTEN HAS NOTHING TO DO WITH FLORIDA, IS REQUIRED.

AND IT HAS, DO THEY HAVE TO BE LAWYERS IN SOME PLACE? THE UNITED STATES.

ACCORDING TO THE RULE A NDI WOULD LIKE TO ADDRESS JUSTICE WELLS'S CONCERN IN PARTICULAR, AND I WOULD LIKE TO MAKE IT VERY CLEAR THAT THE RULE EXPRESSLY SAYS THAT WHEN THIS ONE, IT HAS TO BE A LAWYER ADMITTED IN THE OTHER JURISDICTION IN GOOD

STANDING. NUMBER TWO, THAT IF THEY COME HERE , THEY BECOME SUBJECT TO THE RULES OF THE FLORIDA BAR. AND SUBJECT TO AN ORDER THAT SAYS WHATEVER IS THE POWER WITHIN THE FLORIDA CODE OF CONDUCT , THAT THEY WOULD BE SUBJECT TO THAT JURISDICTION . IT IS ALSO TEMPORARY , SO THAT THE RAPAPORT ISSUE IS NOT INVOLVED AT ALL. IN RAPAPORT , SET UP AN OFFICE, THE OPINION ITSELF , SAYS RAPAPORT SET UP AN OFFICE, IN EFFECT WAS OPERATING THE PRACTICE OF LAW IN FLORIDA. THIS IS PURELY TEMPORARY PRACTICE OF LAW. AS I SAID , OCCUPYING A HOTEL ROOM TO CONDUCT SOMETHING HAVING TO DO VERY LITTLE, WITH FLORIDA LAW. THERE IS NO ADVERTISING THAT WOULD BE PERMITTED UNDER THIS RULE AT ALL , EITHER. JUST TO PICK UP ON THE FINAL CATEGORIES THAT I WAS MENTIONING TO EXPLAIN THE DIFFERENCES, IT IS ALSO IMPORTANT , AGAIN, SINCE WE ARE DEALING WITH A BALANCING ISSUE, TO UNDERSTAND WE ARE TALKING ABOUT A MINISCULE NUMBER OF CASES. IT JUST SO HAPPENS THAT, FOR PURPOSES OF THE POLICY THAT THE GOVERNOR AND LEGISLATURE HAVE FOR THE STATE OF FLORIDA, THEY HAPPEN TO BE CRITICALLY IMPORTANT. YOU HAVE THE STATISTICS IN YOUR BRIEF. THE ICC IS ONE OF THE LEADING OF THE TWO OR THREE LEADING I KNOW TUGS. THEY WOULD SAY THEY ARE THE LEADING , AND I AM NOT GOING TO WEIGH IN ON THAT , BUT THE POINT IS THEY HAVE 600 CASES THAT WERE FILED LAST YEAR WORLDWIDE, SO CASES OUT OF RUSSIA, CASES OUT OF EUROPE , CASES OUT OF LATIN AMERICA , CASES OUT OF THE FAR EAST , IT TOOK A TOTAL OF 600 CASES. THEY, ALONG WITH THE AMERICAN ARBITRATION ASSOCIATION WHICH HAS A SIMILAR NUMBER OF CASES THAT QUALIFY AS, QUOTE , INTERNATIONAL, WE ARE TALKING ABOUT A WORLD WIDE , WE ARE TALKING ABOUT A VERY SMALL NUMBER OF CASES. NOW , THE REASON THAT THEY ARE IMPORTANT TO FLORIDA IS BECAUSE THEY HAPPEN TO BE SUBSTANTIAL CASES, SO THAT THE WORTH OF THE TOTAL, AND IT IS IN THE BRIEFINGS, THE WORTH OF THE TOTAL CASE LOAD IF YOU WOULD THAT THE ICC IS CARRYING, NOT JUST 600 BUT THEIR ACCUMULATED CASELOAD , IS IN EXCESS OF , LIKE , \$50 BILLION, AND WHAT DOES THAT MEAN? THE REASON THAT I THINK IT IS RELEVANT , AGAIN COMING BACK TO JUSTICE CANTERO AND THE COMPLICATION OF RATIONAL BASIS, IS THAT WE ARE NOT TALKING ABOUT CONSUMERS. WE ARE NOT TALKING ABOUT JOE CITIZEN. WHAT WE ARE TALKING ABOUT IS A VERY SOPHISTICATED COMPANY WITH A VERY SPECIFIC NEED FOR COUNSELORS THAT KNOWS THE LAW OF TREATIES AND ABILITIES AND AWARDS IN FOREIGN COUNTRIES AND THE ABILITY TO PROTECT THE AWARDS IN FOREIGN COUNTRIES AND SO ON , AND FRANKLY THERE ISN'T, IN CONTRAST TO OTHER TYPES OF PRACTICES THAT WE HAVE IN FLORIDA AND THAT YOUR HONOR ASKED ABOUT , A LARGE GROUP OF LAWYERS IN FLORIDA THAT HAVE THE EXPERTISE THAT IS REQUIRED TO DEAL WITH THIS, AND AS A RESULT, TO PAINT INTERNATIONAL ARBITRATION WITH THE SAME BRUSH, IF YOU WERE, ASSUMING THAT YOU KEEP THE RULE AS IS BEING PROPOSED BY THE BAR, WOULD IN EFFECT DO A DISSERVICE TO THESE COMPANIES THAT NEED THE SPECIALIZED COUNSEL. IN OTHER WORDS THE BALANCE IS BEING STRUCK IN THE WRONG WAY .

CHIEF JUSTICE: I JUST WANT TO , WE REALLY HAVE LET YOU GO AND I UNDERSTAND, AND IT LOOKS LIKE YOU ARE IN GOOD SHAPE , SINCE AS YOU SAID, NO ONE REALLY OPPOSES YOUR PARTICULAR POINT OF VIEW, SO I WANT TO THANK EVERYBODY. I SEE THAT MY WORDS OF WISDOM ABOUT KEEPING THIS TO UNDER THE 90 MINUTES , REALLY , WORKED VERY WELL. WE ARE ALMOST AT ELEVEN O'CLOCK , BUT THANK EVERYBODY FOR THE CONTRIBUTION TO THIS. I THINK THAT THIS IS A VERY SIGNIFICANT ISSUE. WE APPRECIATE THE TREMENDOUS EFFORT PUT IN AND COUNSEL THAT CAME HERE TO DAY AND THE PROVING AWAY IN WHICH EVERYBODY PRESENTED THEIR CASE. YOU ARE ALL A CREDIT TO OUR PROFESSION. THANK YOU VERY MUCH.

YOUR HONOR, MAY I ADD ONE STATISTIC THE COURT ASKED ABOUT SPECIFICALLY. I WOULD LIKE TO DOWNLOAD IT , AND THAT IS IN CONNECTION WITH THE CHART THAT WAS DONE , THE STATISTICS IN OTHER STATES, ACCORDING TO OUR INTERPRETATION OF THE CHART PUBLISHED ON THE WE B, YOUR HONOR, 14 OF THE STATES HAVE ADOPTED 5.5 WITH NO LIMIT ON APPEARANCES AND NO LIMIT ON REGISTRATION. 13 STATES HAVE RECOMMENDED BY THE BAR THAT 5.5 BE ADOPTED WITH NO LIMIT AND REGISTRATIONS. MANY ARE REVIEWING . NO STATE HAS ADOPTED TO LIMIT IT AS WE INTERPRET THE CHART. THANK YOU VERY MUCH , YOUR

HONOR.

CHIEF JUSTICE: THANK YOU VERY MUCH. THE COURT WILL BE IN RECESS FOR 15 MINUTES.

MARSHA L: PLEASE RISE.