

## Out-of-State Lawyers May Take Depositions in Ohio

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Adopting the general principle that a lawyer admitted in one state and involved in litigation in that state should be permitted to enter another state to perform "ancillary" duties connected to the litigation, the ethics board of the Ohio Supreme Court will permit out-of-state lawyers to enter Ohio to take depositions in cases pending in other states. The board's decision follows the position taken in Section 3, Commente of the *Restatement of the Law Governing Lawyers*.

The board cautioned that out-of-state lawyers would be expected not to make a "persistent" habit of entering the state for purposes ancillary to matters in their home states. The board also made it clear that only a lawyer admitted in the state in which the litigation was pending would be permitted to conduct the deposition in Ohio. The out-of-state lawyer cannot authorize a paralegal or a law school graduate awaiting admission to conduct the deposition, even if the lawyer has prepared all the questions in advance.

If the litigation will be conducted in Ohio instead of his home state, the out-of-state lawyer must first be admitted *pro hac vice* by the Ohio courts before he may conduct a deposition in Ohio.

The Board reminded Ohio lawyers that Ohio's disciplinary rules prevent them from practicing law in a jurisdiction where to do so would violate the rules of that jurisdiction. Because taking depositions is the practice of law, Ohio lawyers should consult the local rules before entering another state to take depositions.