

Ekaterina Schoenefeld: Fought N.Y. law that hurt nonresident attorneys

By Pat Murphy
Staff writer

It's easy to be taken aback by Ekaterina Schoenefeld's modesty in the wake of her success in taking on the power and authority of the state of New York, ending what amounted to a residency requirement that discriminated against out-of-state attorneys.

But the Princeton, N.J. solo seems quite content with the simple fact that she was right that the antiquated law had to go.

"My legal theory was based on the discrimination against out-of-state attorneys," Schoenefeld explained matter-of-factly. "What I had to show was that there was a difference in treatment between in-state and out-of-state licensed attorneys, and that this difference was not justified by a substantial state interest."

Schoenefeld's battle royale with the New York legal establishment began innocuously enough in 2007 when she attended a CLE course. It was

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there that she learned that a New York law required nonresident attorneys to maintain an office in the state if they wanted to practice there.

"I went to this seminar sponsored by the New York State Bar Association only to learn that I could not practice there," she said.

Schoenefeld, who is licensed in New York and California as well as her home state, found the statute particularly burdensome in light of the fact that she is a solo who is still developing her business and commercial litigation practice.

"Obviously, I could not afford to rent an office in New York," said Schoenefeld.



Ekaterina Schoenefeld

The 2005 graduate of Rutgers University School of Law had no qualms about suing to have the law overturned. And sue she did. Her list of defendants in the §1983 case reads like a Who's Who of the state's legal hierarchy. Schoenefeld sued the state, N.Y. Attorney General Andrew Cuomo, the eleven justices of the state's highest court and the 21 members of the state's committee on professional standards.

Appearing pro se, Schoenefeld argued that the New York law violated her right to enjoy

the privileges and immunities of citizenship as guaranteed by the Constitution. Schoenefeld, who emigrated from Moscow to the U.S. in 1997, has a particular reason to prize those rights of citizenship.

In her complaint, Schoenefeld made the point that the New York law "effectively imposes a residency requirement on nonresident attorneys ... when it requires them to maintain a full-time office in the state in order to practice law there" and does not require the same of resident attorneys.

Schoenefeld had to fend off the state's motion to transfer the case to a friendly state court venue, then beat back an attempt to dismiss the case by showing that she had a protected interest in practicing law in New York.

The payoff came early this past September when U.S. District Court Judge Lawrence E. Kahn ruled that the New York law "infringes on nonresident attorneys' right to practice law in violation of the Privileges and Immunities Clause."

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