



## **Different Contracts Dilemma: Offers Presented on Unfamiliar Forms**

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**Q. As the listing agent, I received an offer from an unrepresented buyer on an out-of-state REALTOR® Association form. What should I do?**

**A.** Some options include:

(1) Present the offer to your seller and point out that the form is submitted on an out-of-state REALTOR® form, and encourage your client to hire a licensed Nevada attorney for advice and counsel on the validity in-state. If your client does not already have an attorney, the Nevada State Bar offers a free lawyer referral service: <https://nvbar.org/for-the-public/find-a-lawyer/lrs/>

(2) Propose to prepare the offer on your local Nevada REALTOR Form for which you are a member, but clearly define your lines of representation. **Caution tip!** Be aware of the appearance of inadvertent agency representation. Extreme care must be taken when a licensee representing a seller provides the buyer with services that the buyer may create the reasonable expectation that the licensee is working for him/her.<sup>1</sup>

(3) Inform the buyer that Nevada laws are different from other states' and encourage the buyer to consider seeking a Nevada real estate licensee for competent representation during the transaction.

**Final Point - Never do this!** → Nevada REALTOR® members should not embark on trying to insert choice of law provisions in out of state contracts, such as drafting “Nevada law governs” or copying clauses from Nevada REALTOR® contracts and inserting them in a counter. The American Bar Association’s model definition of the practice of law (c)(2) provides a person is presumed to be practicing law when engaged in the:

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<sup>1</sup> *Keystone Realty v. Glenn Osterhus*, 107 Nev. 173, 177 (1991), as cited in the [Nevada Law and Reference Guide](#), see pg. I-5 or 10/177 of the PDF.



*... (2) Selecting, drafting, or completing legal documents or agreements that affect the legal rights of a person;*

This type of practice amounts to the unauthorized practice of law!

Other considerations, how did this unrepresented buyer get their hands on a copyrighted REALTOR® association form? We're all part of the REALTOR® family, consider reaching out to the particular REALTOR® association whose form is potentially being improperly used by a non-member for their follow-up and action.

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