

News & Types: News

日本の最高裁判所、タトゥー（入れ墨）の施術に医師免許は不要との判断を下す

10/6/2020

In 2018, Monika Oyama, Principal of Masuda, Funai, Eifert & Mitchell, Ltd., assisted a team of Japanese lawyers, on a pro bono basis, with a case that reached the Supreme Court of Japan (the “Supreme Court”). The legal team represented a tattoo artist that was charged by prosecutors for violating the Japan Medical Practitioners’ Act (the “Act”) by engaging in tattooing practices without a medical license. See original article (link). **This was the first case in Japan examining the issue of whether tattooing is a “medical practice” that requires a medical license.**

On September 16, 2020, the Supreme Court ruled that tattooing does not constitute a “medical practice” as defined under the Medical Practitioners’ Law and, thus, tattooing without a medical license does not violate the Medical Practitioners’ Law. The Second Petty Bench of the Supreme Court dismissed an appeal brought by the prosecutors, affirming the Osaka High Court’s decision that overturned the Osaka District Court’s verdict of holding the tattoo artist guilty for violating the Medical Practitioners’ Law.

Although the Supreme Court did not directly refer to the laws and regulations of other countries, it is believed that the practices in other countries, and their societal influences in Japan, did affect the court’s decision. Importantly, the Supreme Court emphasized that the court needs to make a decision in light of, among other things, the public attitude towards and the reality of tattooing from a conventional view. Taking this approach, the court acknowledged that tattooing has been accepted by the public as an activity with decorative, symbolic, and artistic value, historically without the need of any medical or health guidance. In a concurring opinion, one of the Supreme Court justices mentioned that recently there has been an increase of people that get tattoos through the influence of foreign (non-Japanese) sports athletes, etc. and, in light of this trend, to require a medical license to give tattoos would prevent the public from maximizing its wellbeing. He further commented that if there is a necessity to regulate tattooing in a reasonable manner from a health and hygiene perspective, that should be done through legislation.

Ms. Oyama said, “It was an honor to be able to make a modest contribution on this historic case. I believe that this decision will advance the laws and culture surrounding tattooing in Japan.”

Masuda Funai has offered pro bono work throughout the past 90 years to those in need, and helped foreign enterprises remove barriers and ease the process for international companies entering, operating and expanding into the United States. The law firm dedicated to foreign investment into the U.S. knows every aspect of the business life cycle and provides the full range of requisite legal services, from simple matters to highly complex transactions and disputes.