



Alerts

In-House, Out-of-State Licensed Counsel Must Register to Practice in New York State

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Lawyers for the Profession® Alert

Rules of the New York Court of Appeals for the Registration of In-House Counsel, 22 NYCRR 522.1 – 522.7

Brief Summary

The New York State Court of Appeals issued new rules directing current in-house counsel who are licensed only out-of-state to register with the Clerk of the Appellate Division of the department in which the lawyer resides or is employed by July 19, 2011. In-house lawyers in New York should review the rules and register to avoid any potential for unauthorized practice of law.

Complete Summary

The New York State Court of Appeals recently amended its rules requiring current in-house counsel who are licensed out-of-state to register with the department of the Appellate Division in which they practice. To be eligible for registration, the in-house lawyer must: (1) be employed full time in New York by a “non-governmental corporation, partnership, association or other legal entity, including its subsidiaries and organizational affiliates, that is not itself engaged in the practice of law or the rendering of legal services outside such organization”; (2) be admitted to the highest court in any state or territory or the District of Columbia; (3) be a member in good standing of the Bar in at least one other jurisdiction; and (4) have good moral character and general fitness.

Such out-of-state lawyers need not take the bar exam. But they must still provide the Clerk of the appropriate department of the Appellate Division with: (1) a certification of good standing of each jurisdiction in which the attorney is licensed to practice law; (2) a letter from each jurisdiction’s grievance committee certifying whether the applicant has any pending or resolved complaints; and (3) an affidavit that the applicant will perform services within New York state for the employer entity alone.

These new rules expressly prohibit the out-of-state counsel from appearing in court or engaging in any activity which could otherwise be permitted through the *pro hac vice* process. In addition, a registered in-house out-of-state attorney may not provide legal services to any of the employer’s customers or employees. Finally, and most importantly, the registered lawyer may not hold himself or herself out as an attorney licensed to practice in New York state

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except on his or her company's letterhead with the designation that they are so registered.

Practitioners who presently are not licensed in New York but are working in-house must register with the appropriate Clerk of the Appellate Division of the department in which they reside or are employed by July 19, 2011. New hires must register within 30 days of beginning their employment. Re-registration then will be required on a biennial basis. Registrants who lose the right to practice in another jurisdiction or are no longer employed in New York must notify the Appellate Division.

In adopting these new rules, New York now joins the vast majority of jurisdictions that have adopted some form of ABA Model Rule 5.5(d) permitting registration of out-of-state lawyers.

Significance of Opinion

New York's long-awaited decision to formally permit out-of-state lawyers to practice in New York on a limited basis as in-house counsel, without formal admission to the state Bar, provides a straightforward process and clear guidance to in-house lawyers and their employers.

For more information, please contact your regular [Hinshaw](#) attorney.

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