State of New York
Court of Appeals

Clerk of the Court

Clerk's Office
Albany, New York 12207-1095

December 15, 2015

NOTICE TO THE BAR

Temporary Practice of Law in New York (Part 523) and Registration of Foreign Lawyers as In-house Counsel (Part 522)

The Court of Appeals has amended its rules to add a new Part 523 pertaining to the temporary practice of law in New York by out-of-state and foreign attorneys. The amendment sets forth the circumstances under which an attorney not admitted in New York may provide temporary legal services in the State. An attorney providing such temporary legal services may not establish an office or other systematic presence in the State or hold out to the public or otherwise represent that the attorney is admitted to practice here. Additionally, an attorney practicing pursuant to Part 523 is subject to the New York Rules of Professional Conduct and the disciplinary authority of this State.

The Court also has amended its Rules for the Registration of In-house Counsel (Part 522). Under the newly amended rules, registration is now available to a foreign attorney who is a member in good standing of a recognized legal profession in a non-United States jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and subject to effective regulation by a duly constituted professional body or public authority.

The rule amendments are effective December 30, 2015. A copy of the Court's orders amending the rules is attached.

John P. Asiello
Chief Clerk and Legal Counsel to the Court

State of New York
Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany, on the 10th day of December, 2015

Present, HON. JONATHAN LIPPMAN, Chief Judge Presiding.

In the Matter

of

The Amendment of the Rules of the Court of Appeals to add a new Part 523 thereof for the Temporary Practice of Law in New York.

Pursuant to section 53 of the Judiciary Law, it is hereby

ORDERED that the Rules of the Court of Appeals are amended, effective December 30, 2015, or as soon thereafter as section 52 of the Judiciary Law is complied with, by adding a new Part 523 thereof pertaining to the Temporary Practice of Law in New York. Part 523 provides as follows:

RULES OF THE COURT OF APPEALS FOR

THE TEMPORARY PRACTICE OF LAW IN NEW YORK

§ 523.1 General regulation as to lawyers admitted in another jurisdiction

A lawyer who is not admitted to practice in this State shall not:

(a) except as authorized by other rules or law, establish an office or other systematic and continuous presence in this State for the practice of law; or

(b) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this State.

§ 523.2 Scope of temporary practice

(a) A lawyer who is not admitted to practice in this State may provide legal services on a temporary basis in this State provided the following requirements are met.

(1) The lawyer is admitted or authorized to practice law in a state or territory of the United States or in the District of Columbia, or is a member of a recognized legal profession in a non-United States jurisdiction, the members of which are admitted or authorized to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority; and

(2) the lawyer is in good standing in every jurisdiction where admitted or authorized to practice; and

(3) the temporary legal services provided by the lawyer could be provided in a jurisdiction where the lawyer is admitted or authorized to practice and may generally be provided by a lawyer admitted to practice in this State, and such temporary legal services:

(i) are undertaken in association with a lawyer admitted to practice in this State who actively participates in, and assumes joint responsibility for, the matter; or

(ii) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer or a person the lawyer is assisting is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized; or

(iii) are in or reasonably related to a pending or potential arbitration, mediation or other

alternative dispute resolution proceeding held or to be held in this or another jurisdiction, if the services are not services for which the forum requires pro hac vice admission; or (iv) are not within paragraph (3)(ii) or (3)(iii) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted or authorized to practice.

(b) A person licensed as a legal consultant pursuant to 22 NYCRR Part 521, or registered as in-house counsel pursuant to 22 NYCRR Part 522, may not practice pursuant to this Part.

§ 523.3 Disciplinary authority

A lawyer who practices law temporarily in this State pursuant to this Part shall be subject to the New York Rules of Professional Conduct and to the disciplinary authority of this State in connection with such temporary practice to the same extent as if the lawyer were admitted or authorized to practice in the State. A grievance committee may report complaints and evidence of a disciplinary violation against a lawyer practicing temporarily pursuant to this Part to the appropriate disciplinary authority of any jurisdiction in which the attorney is admitted or authorized to practice law.

§ 523.4 Annual report

On or before the first of September of each year, the Office of Court Administration shall file an annual report with the Chief Judge reviewing the implementation of this rule and making such recommendations as it deems appropriate.

State of New York
Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany, on the 10th day of December, 2015

Present, HON. JONATHAN LIPPMAN, Chief Judge Presiding.

In the Matter

of

The Amendment of the Rules of the Court of Appeals for the Registration of In-house Counsel.

Pursuant to section 53 of the Judiciary Law, it is hereby

ORDERED that Part 522 of the Rules of the Court of Appeals for the Registration of In-house Counsel (22 NYCRR Part 522) is amended, effective December 30, 2015, or as soon thereafter as section 52 of the Judiciary Law is complied with, by deleting the bracketed material and adding the underlined material to sections 522.1, 522.2, 522.3, 522.7, and 522.8.

§ 522.1 Registration of In-House Counsel

(a) In-House Counsel defined. An in-house counsel is an attorney who is employed full time in this State 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.

(b) In its discretion, the Appellate Division may register as in-house counsel an applicant who:

(1) (i) has been admitted to practice in the highest law court in any other state or territory of the United States or in the District of Columbia; or (ii) is a member in good standing of a recognized legal profession in a foreign non-United States jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and subject to effective regulation by a duly constituted professional body or public authority;

(2) is currently admitted to the bar as an active member in good standing in at least one other jurisdiction, within or outside the United States, which would similarly permit an attorney admitted to practice in this State to register as in-house counsel; and

(3) possesses the good moral character and general fitness requisite for a member of the bar of this State.

§ 522.2 Proof required

An applicant under this Part shall file with the Clerk of the Appellate Division of the department in which the applicant resides, is employed or intends to be employed as in-house counsel:

(a) a certificate of good standing from each jurisdiction in which the applicant is licensed to practice law;

(b) a letter from each such jurisdiction's grievance committee, or other body entertaining complaints against attorneys, certifying whether charges have been filed with or by such committee or body against the applicant, and, if so, the substance of the charges and the disposition thereof;

(c) an affidavit certifying that the applicant:

(1) performs or will perform legal services in this State solely and exclusively as provided in section 522.4; and

(2) agrees to be subject to the disciplinary authority of this State and to comply with the New York Rules of Professional Conduct (22 NYCRR Part 1200) and the rules governing the conduct of attorneys in the judicial department where the attorney's registration will be issued; and

(d) an affidavit or affirmation signed by an officer, director, or general counsel of the applicant's employer, on behalf of said employer, attesting that the applicant is or will be employed as an attorney for the employer and that the nature of the employment conforms to the requirements of this Part.

(e) Documents in languages other than English shall be submitted with a certified English translation.

§ 522.3 Compliance

An attorney registered as in-house counsel under this Part shall:

(a) remain an active member in good standing in at least one state or territory of the United States or in the District of Columbia or a foreign jurisdiction as described in section 522.1(b)(1);

(b) promptly notify the appropriate Appellate Division department of a disposition made in a disciplinary proceeding in another jurisdiction;

(c) register with the Office of Court Administration and comply with the appropriate biennial registration requirements; and

(d) except as specifically limited herein, abide by all of the laws and rules that govern attorneys admitted to the practice of law in this State.

§ 522.7 Saving Clause and Noncompliance

(a) An attorney employed as in-house counsel, as that term is defined in section 522.1(a), [on the effective date of this Part, shall within 90 days of the date thereof, file an application in accordance with section 522.2. Attorneys employed as in-house counsel after the effective date of this Part] shall file [such] an application in accordance with section 522.2 within 30 days of the commencement of such employment;

(b) Failure to comply with the provisions of this Part shall be deemed professional misconduct, provided, however, that the Appellate Division may upon application of the attorney grant an extension upon good cause shown.

§ 522.8 Pro bono legal services

Notwithstanding the restrictions set forth in section 522.4 of this Part, an attorney registered as in-house counsel under this Part may provide pro bono legal services in this State in accordance with New York Rules of Professional Conduct (22 NYCRR 1200.0) rule 6.1(b) and other comparable definitions of pro bono legal services in New York under the following terms and conditions. An attorney providing pro bono legal services under this section:

(a) shall be admitted to practice and in good standing in another state or territory of the United States or in the District of Columbia and possess the good moral character and general fitness requisite for a member of the bar of this State, as evidenced by the attorney's registration pursuant to section 522.1(b) of this Part;

(b) pursuant to section 522.2(c)(2) of this Part, agrees to be subject to the disciplinary authority of this State and to comply with the laws and rules that govern attorneys admitted to the practice of law in this State, including the New York Rules of Professional Conduct (22 NYCRR Part 1200.0) and the rules governing the conduct of attorneys in the judicial department where the attorney's registration is issued;

(c) may appear, either in person or by signing pleadings, in a matter pending before a tribunal, as that term is defined in New York Rules of Professional Conduct (22 NYCRR 1200.0) rule 1.0(w), at the discretion of the tribunal, without being admitted pro hac vice in the matter. Prior to any appearance before a tribunal, a registered in-house counsel must provide notice to the tribunal that the attorney is not admitted to practice in New York but is registered as in-house counsel pursuant to this Part. Such notice shall be in a form approved by the Appellate Division; and

(d) shall not hold oneself out as an attorney admitted to practice in this State, in compliance with section 522.4(d) of this Part.