

Corporate Counsel

Professional Responsibility

Is Your New In-House Counsel Current with New York's New Registration Requirements?



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Have you recently hired or plan to hire a non New York licensed attorney to serve as in-house counsel¹ in your New York office to advise your business about New York legal issues? If so, your in-house counsel must comply with new registration requirements of Part 522 of the Rules of the Court of Appeals within thirty days of the commencement of such employment. The new rule already required existing in-house counsel to register within 90 days of the April 20, 2010 effective date. Non compliance with the registration rule is deemed to be professional misconduct.

Eligibility

Only in-house attorneys who are in good standing in their respective states which also must have similar reciprocity for in-house counsel registration requirements are permitted to submit a registration application in New York. Forty-four other

states plus the District of Columbia have similar registration rules. The rule however does not extend to attorneys admitted in foreign jurisdictions.

Application

The registration process begins by submitting an application with the Appellate Division of the Supreme Court in the Judicial Department in which the in-house counsel resides or is employed. The application must also be reviewed and verified by an officer, director or the general counsel of your business. If there are any questions concerning the verification or unfamiliarity with any of the requirements, we recommend that outside local counsel be consulted. Applicants are required to comply with the New York Rules of Professional Conduct (22 NYCRR Part 1200) and any rules governing conduct in the judicial department where the attorney registration will be issued.

Compliance Obligations

Registered in-house counsel are required to (1) remain in good standing in at least one state or the District of Columbia, (2) notify the Appellate Division of any disciplinary dispositions, (3) register with the New York Office of Court Administration, (4) comply with the biennial registration requirements, including the significant continuing legal education requirements, and (5) abide by the laws and rules that govern attorneys admitted to practice within New York State.

Limits Imposed on Legal Services Provided by In-House Counsel

Registered in-house counsel are limited to (1) providing legal services in New York only to a single employer or its organizational affiliate, (2) not making appearances before courts or tribunals, (3) not

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engaging in any activity for which *pro hac vice* admission would be required, (4) not providing legal services to any customers, shareholders, owners, partners, officers, employees, or agents of the employer, and (5) not holding themselves out as attorneys admitted to practicing in New York, except on the employers' letterhead with a limiting designation.

Conclusion

New York's adoption of the In-House Counsel Registration rule was long over due and provides the frame work and guidelines for in-house counsel to practice within ethical and legal bounds in New York. Employers may also want to discuss insurance coverage for their newly hired in-house counsel so that the employer and in-house counsel are protected to the extent coverage is available. Some national insurance companies are underwriting policies under the category of Employed Lawyers Professional Liability.

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¹ Defined as 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 rendering of legal services outside such organization. 22 NYCRR § 522.1(a)