RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY
RULE 1:21. PRACTICE OF LAW

1:21-1. Who May Practice; Appearance in Court

(a) Qualifications. Except as provided below, no person shall practice law in this State unless that person is an attorney holding a plenary license to practice in this State, is in good standing, and complies with the following requirements:

(1) An attorney need not maintain a fixed physical location for the practice of law, but must structure his or her practice in such a manner as to assure, as set forth in RPC 1.4, prompt and reliable communication with and accessibility by clients, other counsel, and judicial and administrative tribunals before which the attorney may practice, provided that an attorney must designate one or more fixed physical locations where client files and the attorney's business and financial records may be inspected on short notice by duly authorized regulatory authorities, where mail or hand-deliveries may be made and promptly received, and where process may be served on the attorney for all actions, including disciplinary actions, that may arise out of the practice of law and activities related thereto.

(2) An attorney who is not domiciled in this State and does not maintain a fixed physical location for the practice of law in this State, but who meets all qualifications for the practice of law set forth herein must designate the Clerk of the Supreme Court as agent upon whom service of process may be made for the purposes set forth in subsection (a)(1) of this rule, in the event that service cannot otherwise be effectuated pursuant to the appropriate Rules of Court. The designation of the Clerk as agent shall be made on a form approved by the Supreme Court.

(3) The system of prompt and reliable communication required by this rule may be achieved through maintenance of telephone service staffed by individuals with whom the attorney is in regular contact during normal business hours, through promptly returned voicemail or electronic mail service, or through any other means demonstrably likely to meet the standard enunciated in subsection (a)(1).

(4) An attorney shall be reasonably available for in-person consultations requested by clients at mutually convenient times and places.

A person not qualifying to practice pursuant to the first paragraph of this rule shall nonetheless be permitted to appear and prosecute or defend an action in any court of this State if the person (1) is a real party in interest to the action or the guardian of the party; or (2) has been admitted to speak pro hac vice pursuant to R. 1:21-2; (3) is a law student or law graduate practicing within the limits of R. 1:21-3; or (4) is an in-house counsel licensed and practicing within the limitations of R. 1:27-2.

Attorneys admitted to the practice of law in another United States jurisdiction may practice law in this state in accordance with RPC 5.5(b) and (c) as long as they comply with Rule 1:21-1(a)(1).

No attorney authorized to practice in this State shall permit another person to practice in this State in the attorney's name or as the attorney's partner, employee or associate unless such other person satisfies the requirements of this rule.

(b) Appearance. All attorneys and pro se parties appearing in any action shall be under the control of the court in which they appear and subject to appropriate disciplinary action. An attorney admitted in another jurisdiction shall not be deemed to be making an appearance in this State by reason of taking a deposition pursuant to R. 4:11-4.

(c) Prohibition on Entities. Except as otherwise provided by paragraph (d) of this rule and by R. 1:21-1A (professional corporations), R. 1:21-1B (limited liability companies), R. 1:21-1C (limited liability partnerships), R. 6:10 (appearances in landlord-tenant actions), R. 6:11 (appearances in small claims actions), R. 7:6-2(a) (pleas in municipal court), R. 7:8-7(a) (presence of defendant in municipal court) and by R. 7:12-4(d) (municipal court violations bureau), an entity, however formed and for whatever purpose, other than a sole proprietorship shall neither appear nor file any paper in any action in any court of this State except through an attorney authorized to practice in this State.

(d) Federal Government Agencies. Staff attorneys employed full time by agencies of the federal government that have an office in New Jersey may represent the interests of that agency in federal and state courts in New Jersey without complying with subsection (a)(1) of this rule.

(e) Legal Assistance Organizations. Nonprofit organizations incorporated in this or any other state for the purpose of providing legal assistance to the poor or functioning as a public interest law firm, and other federally tax exempt legal assistance organizations or trusts, such as those defined by 26 U.S.C.A. 120(b) and 501(c)(20), that provide legal assistance to a defined and limited class of clients, may practice law in their own names through staff attorneys who are members of the bar of the State of New Jersey, provided that: (1) the legal work serves the intended beneficiaries of the organizational purpose, (2) the staff attorney responsible for the matter signs all papers prepared by the organization, and (3) the relationship between staff attorney and client meets the attorney's professional responsibilities to the client and is not subject to interference, control, or direction by the organization's board or employees except for a supervising attorney who is a member of the New Jersey bar. In addition, nonprofit organizations incorporated in this or any other state for the purpose of providing legal assistance to persons of low and low-moderate means, which are affiliated or associated with an ABA-accredited law school and which include a program to educate, mentor, or train recent law school graduates who are recently admitted members of the New Jersey bar ("participating new attorneys"), may practice law in the name of the

organization through such participating new attorneys, provided that: (1) the legal work provided by the organization serves clients of low to low-moderate means, (2) the participating new attorney responsible for any particular matter signs all papers in that matter on behalf of the organization, and (3) the relationship between the participating new attorney and the client is consistent with the attorney's professional responsibilities to the client and is not subject to interference, control, or direction by the organization's board or employees, except to the extent that the participating new attorney is under the oversight of a supervising attorney who is a member of the New Jersey bar.

(f) Appearances Before Office of Administrative Law and Administrative Agencies. Subject to such limitations and procedural rules as may be established by the Office of Administrative Law, an appearance by a non-attorney in a contested case before the Office of Administrative Law or an administrative agency may be permitted, on application, in any of the following circumstances:

(1) where required by federal statute or regulation;

(2) to represent a state agency if the Attorney General does not provide representation in the particular matter and the non-attorney representative is an employee of the agency with special expertise or experience in the matter in controversy;

(3) to represent a county welfare agency if County Counsel does not provide representation in the particular matter and the non-attorney representative is an employee of the agency with special expertise or experience in the matter in controversy;

(4) to assist in providing representation to an indigent as part of a Legal Services program if the non-attorney is a paralegal or legal assistant employed by that program;

(5) to represent a state, county or local government employee in Civil Service proceedings, provided (i) the non-attorney making such appearance is an authorized representative of a labor organization and (ii) the labor organization is the duly authorized representative of the employee for collective bargaining purposes;

(6) to represent a close corporation provided the non-attorney is a principal of the corporation;

(7) to assist an individual who is not represented by an attorney provided (i) the presentation appears likely to be enhanced by such assistance, (ii) the individual certifies that he or she lacks the means to retain an attorney and that representation is not available through a Legal Services program and (iii) the conduct of the proceeding by the Office of Administrative Law will not be impaired by such assistance;

(8) to represent parents or children in special education proceedings, provided the non-attorney has knowledge or training with respect to handicapped pupils and their educational needs so as to enable the non-attorney to facilitate the presentation of the claims or defenses of the parent or child;

(9) to represent union members and employees entitled to union representation in public employment relations proceedings, provided the appearance is by a union representative;

(10) to represent a county or local government appointing authority in Civil Service proceedings, provided the non-attorney representative is an employee of the appointing authority with special expertise or experience in the matter in controversy and the legal representative for the county or municipality does not provide representation in the particular matter; or

(11) to represent a claimant or employer before the Appeal Tribunals or Board of Review of the Department of Labor.

No representation or assistance may be undertaken pursuant to subsection (f) by any disbarred or suspended attorney or by any person who would otherwise receive a fee for such representation.

(g) Appearances at Personal Injury Protection Arbitrations. A non-attorney may represent an insurance company employer at a Personal Injury Protection (PIP) arbitration.

Note: Source - R.R. 1:12-4(a) (b) (c) (d) (e) (f). Paragraph (c) amended by order of December 16, 1969 effective immediately; paragraphs (a) and (c) amended July 29, 1977 to be effective September 6, 1977; paragraph (a) amended July 24, 1978 to be effective September 11, 1978; paragraph (a) amended September 21, 1981 to be effective immediately; paragraph (c) amended and paragraph (d) adopted July 15, 1982 to be effective September 13, 1982; paragraph (a) amended August 13, 1982 to be effective immediately; paragraph (e) adopted July 22, 1983 to be effective September 12, 1983; paragraph (c) amended November 1, 1985 to be effective January 2, 1986; paragraph (a) amended November 5, 1986 to be effective January 1, 1987; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (b) amended and paragraph (d) caption and text amended June 29, 1990 to be effective September 4, 1990; paragraph (c) amended and paragraph (e)(8) adopted July 14, 1992 to be effective September 1, 1992; paragraphs (c), (e), and (e)(7) amended, and paragraph (e)(9) added July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (e) amended June 28, 1996 to be effective September 1, 1996; paragraph (c) amended November 18, 1996 to be effective January 1, 1997; paragraph (c) amended January 5, 1998 to be effective February 1, 1998; paragraph (a) amended, former paragraphs (d) and (e) redesignated as paragraphs (e) and (f), and new paragraph (d) adopted July 10, 1998 to be effective September 1, 1998; closing paragraph amended July 5, 2000 to be effective September 5, 2000; paragraph (f) amended and new paragraph (f)(11) added July 12, 2002 to be effective September 3, 2002; paragraph (a) amended November 17, 2003 to be effective January 1, 2004; paragraph (a) amended July 28, 2004 to be effective September 1, 2004; paragraph (e) caption and text amended July 27, 2006 to be effective September 1, 2006; paragraph (f) amended and paragraph (g) adopted July 16, 2009 to be effective September 1, 2009; paragraph (c) caption and text amended July 23, 2010 to be effective September 1, 2010; caption and paragraphs (a) and (d) amended January 15, 2013 to be effective February 1, 2013; paragraphs (a)(1) and (a)(2) amended February 27, 2013 to be effective immediately; paragraph (a) amended July 9, 2013 to be effective September 1, 2013; paragragh (e) amended January 21, 2015 to be effective immediately.

1:21-1A. Professional Corporations for the Practice of Law

(a) Attorneys may engage in the practice of law as professional corporations in the same manner as an individual or a partnership may engage in the practice of law, provided that:

(1) All provisions of the "Professional Service Corporation Act" (N.J.S.A. 14A:17-1 through 18) shall be complied with.

(2) The professional corporation shall comply with and be subject to all rules governing the practice of law by attorneys and it shall do nothing which, if done by an individual attorney would violate the standards of professional conduct applicable to attorneys licensed to practice law in this State. Any violation of this rule by the professional corporation shall be grounds for the Supreme Court to terminate or suspend the professional corporation's right to practice law or otherwise to discipline it.

(3) The professional corporation shall obtain and maintain in good standing one or more policies of lawyers' professional liability insurance which shall insure the corporation against liability imposed upon it by law for damages resulting from any claim made against the corporation by its clients arising out of the performance of professional services by attorneys employed by the corporation in their capacities as attorneys. The insurance shall be in an amount for each claim of at least $100,000 multiplied by the number of attorneys employed by the corporation, provided that the maximum coverage shall not be required to exceed $5,000,000 for each claim, and further provided that the deductible portion to such insurance shall not exceed $10,000 multiplied by the number of attorneys employed by the corporation or $500,000, whichever is less. The corporation may enter into an indemnity agreement with its insurer under which the corporation agrees to indemnify the insurer for losses in excess of the amount of the permitted deductible, provided that the insurer remains liable to pay all judgments against the corporation up to the policy limits regardless whether the corporation indemnifies the insurer as required under the indemnity agreement.

(b) Within 30 days after filing its certificate of incorporation or, in the case of a foreign professional legal corporation, the filing of its registration with the Secretary of State, each professional corporation formed to engage in the practice of law shall file with the Clerk of the Supreme Court a certificate of insurance, issued by the insurer, setting forth the name and address of the insurance company writing the insurance policies required by paragraph (a)(3) of this rule and the policy number and policy limits. The professional corporation shall also file such other information as the Supreme court may from time to time prescribe.

Amendments to and renewals of the certificate of insurance shall be filed with the Clerk of the Supreme Court within 30 days after the date on which such amendments or renewals become effective.

(c) The corporate name of the professional corporation shall comply with the provisions of RPC 7.5 and shall contain only the full or last names of one or more of its shareholders or members of a predecessor firm, whether the shareholder or member be living, deceased or retired. Wherever the corporate name of the professional corporation is used it shall be followed by the phrase "A professional corporation," or by any other phrase or abbreviation authorized by N.J.S.A. 14A:17-14 to indicate that it is a professional corporation. When the professional corporation is a foreign professional legal corporation, the phrase shall also identify the state of incorporation (e.g., "A professional corporation incorporated in the State of New York"). The corporate name shall be used on all pleadings, correspondence or other documents. Correspondence, pleadings and other documents executed in connection with the practice of law shall be executed on behalf of the corporation by one of its attorney employees. Corporate documents executed other than in connection with the practice of law may be executed on behalf of the corporation by an authorized employee who is not licensed to practice law.

(d) No person shall hold any shares of stock in any professional corporation engaged in the practice of law unless actually and actively engaged in the practice of law as an employee or agent of, or "of counsel" to such corporation, except for leave of absence not to exceed one year and for absences on account of illness, accident, time spent in the armed services and vacation, and except that the legal representative of the estate of a deceased shareholder and a shareholder disqualified from the practice of law may continue to hold shares of stock in the professional corporation for the period provided for in the Professional Service Corporation Act, as amended and supplemented, but without the right to receive as a shareholder any portion of the earnings or profits of the corporation derived from professional services rendered by the corporation subsequent to the date of death of the deceased shareholder or the date of disqualification of the disqualified shareholder, as the case may be. A professional corporation actually and actively engaged in the practice of law may hold shares of stock in another professional corporation covered by this rule.

(e) The Board of Directors of a professional corporation for the practice of law shall consist of one or more persons, all of whom shall be licensed to practice law, and at least one of whom shall be licensed to practice in New Jersey. Such directors need not be shareholders. Officers of the professional law corporation need not be licensed members of the New Jersey bar unless the corporation is a domestic professional legal corporation, in which case the president shall be so licensed.

(f) A professional corporation may engage in the practice of law in partnership with another professional corporation or corporations, or with an attorney or partnership of attorneys. The partnership name shall, in addition to meeting the requirements of Rule 1:21-1A(c), be followed by the designation "a partnership of professional corporations" or "a partnership including professional corporations." When any member of a partnership is a foreign professional legal corporation that is incorporated in a state other than New Jersey, the required designation shall also state this fact. When the professional corporation is engaged in the practice of law in partnership with another

corporation, partnership, or attorney, all disciplinary rules and rules of practice applicable to partnerships of attorneys will apply.

Note: Adopted December 16, 1969 effective immediately; paragraph (a) amended July 7, 1971 to be effective September 13, 1971; paragraph (c) amended June 29, 1973 to be effective September 10, 1973; paragraphs (a), (b), (c), (d) and (e) amended and paragraph (f) adopted July16, 1981 to be effective September 14, 1981; paragraph (c) amended January 16, 1984 to be effective immediately; paragraph (c) amended July 14, 1992 to be effective September 1, 1992; paragraph (d) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended December 9, 1994 to be effective January 2, 1995; paragraphs (a), (b), (c), (e), and (f) amended April 30, 1996 to be effective immediately.

1:21-1B. Limited Liability Companies for the Practice of Law

(a) Attorneys may engage in the practice of law as limited liability companies in the same manner as an individual or a partnership may engage in the practice of law, provided that:

(1) All provisions of the "New Jersey Limited Liability Company Act," N.J.S.A. 42:2B-1 through 70, shall be complied with, except where inconsistent with these rules.

(2) Any attorney who is a member, employee, agent, or representative of the limited liability company shall remain personally liable for his or her own negligence, omissions, malpractice, wrongful acts, or misconduct, and that of any person under his or her direct supervision and control while rendering professional services on behalf of the limited liability company.

(3) The limited liability company shall comply with and be subject to all rules governing the practice of law by attorneys and it shall do nothing which, if done by an individual attorney would violate the standards of professional conduct applicable to attorneys licensed to practice law in this State. Any violation of this rule by the limited liability company shall be grounds for the Supreme Court to terminate or suspend the limited liability company's right to practice law or otherwise to discipline it.

(4) The limited liability company shall obtain and maintain in good standing one or more policies of lawyers' professional liability insurance which shall insure the limited liability company against liability imposed upon it by law for damages resulting from any claim made against the limited liability company by its clients arising out of the performance of professional services by attorneys employed by the limited liability company in their capacities as attorneys. The insurance shall be in the amount for each claim of at least $100,000 multiplied by the number of attorneys employed by the limited liability company, provided that the maximum coverage shall not be required to exceed $5,000,000 for each claim, and further provided that the deductible portion of such insurance shall not exceed $10,000 multiplied by the number of attorneys employed by the limited liability company or $500,000, whichever is less. The limited liability company may enter into an indemnity agreement with its insurer under which the limited liability company agrees to indemnify the insurer for losses in excess of the amount of the

permitted deductible provided that the insurer remains liable to pay all judgments against the limited liability company up to the policy limits regardless whether the limited liability company indemnifies the insurer as required under the indemnity agreement.

(5) The limited liability company shall not engage in any business other than the rendering of professional legal services of the type provided by attorneys-at-law, except that a limited liability company shall not be prohibited from investing its funds in real estate, mortgages, stocks, bonds or any other type of investments, or from owning real or personal property necessary for, or appropriate or desirable in, the fulfillment or rendering of its professional legal services.

(6) No limited liability company may render legal services in this State except through its members, employees or agents who are duly licensed and otherwise qualified to render legal services under these rules.

(b) Within 30 days after filing its certificate of formation or, in the case of a foreign limited liability company, the filing of its application for registration with the Secretary of State, each limited liability company engaged in the practice of law shall file with the Clerk of the Supreme Court a certificate of insurance, issued by the insurer, setting forth the name and address of the insurance company writing the insurance policies required by paragraph (a)(4) of this rule and the policy number and policy limits. The limited liability company shall also file such other information as the Supreme Court may from time to time prescribe.

Amendments to and renewals of the certificate of insurance shall be filed with the Clerk of the Supreme Court within 30 days after the date on which such amendments or renewals become effective.

(c) The name of the limited liability company shall comply with the provisions of RPC 7.5 and shall contain only the full or last names of one or more of its present members, or one or more of the members, partners, or shareholders of a predecessor firm, whether living, deceased or retired. Wherever the name of the limited liability company is used it shall be followed by the phrase "A limited liability company," or by any other phrase or abbreviation authorized by N.J.S.A. 42:2B-3 to indicate that it is a limited liability company. In the case of a foreign limited liability company, the phrase shall also identify the jurisdiction of formation (e.g., "A limited liability company formed in the State of New York"). The limited liability company name shall be used on all pleadings, correspondence or other documents. Correspondence, pleadings and other documents executed in connection with the practice of law shall be executed on behalf of the limited liability company by one of its members, employees, agents or representatives who is an attorney licensed to practice law. Limited liability company documents executed other than in connection with the practice of law may be executed on behalf of the limited liability company by an authorized employee who is not licensed to practice law.

(d) No person shall hold any interest in any limited liability company engaged in the practice of law unless licensed to practice law and actually and actively engaged in the practice of law as a member, employee or agent of, or "of counsel" to the limited liability company, except for leave of absence not to exceed one year and for absences on account of illness, accident, time spent in the armed services and vacation. The legal representative of the estate of a deceased member, a member disqualified from the practice of law, or a member who is withdrawing from membership in the limited liability company or whose employment with the limited liability company is being terminated for any reason whatsoever, may continue to hold an interest in the limited liability company for the following periods and under the following conditions:

(1) Within 375 days following the date of death of a member or within 90 days following the member's disqualification from the practice of law, or the member's withdrawal from membership or termination of employment, all of the interest of the member shall be transferred to, and acquired by the limited liability company or attorneys qualified to own the interest. If the transfer and acquisition is not otherwise effected within the specified period, the limited liability company shall forthwith purchase and redeem all of the member's interest at the value established in the operating agreement or other agreement, if any. If the method of valuation is not established by agreement, redemption shall be at the book value of the shares, determined as of the end of the month immediately preceding death, disqualification, withdrawal or termination. For this purpose, the book value shall be determined by an independent certified public accountant employed by the limited liability company from the books and records of the limited liability company in accordance with the regular methods of accounting used by it. Nothing contained herein shall prevent the parties from agreeing, either through the operating agreement or otherwise, to another arrangement for the transfer of a member's interest to the limited liability company or persons qualified to own the interest, provided that within the periods specified, all of the interest involved shall have been so transferred.

(2) The continued interest of a member as described in (1) above during the period specified shall not include the right to participate in any decisions concerning the rendering of professional legal services by the limited liability company, nor the right to receive any portion of the earnings or profits of the limited liability company derived from legal services rendered by the limited liability company subsequent to the date of death, disqualification, or withdrawal from membership or termination of employment.

(3) Notwithstanding the foregoing, if any member, employee, agent or representative of the limited liability company becomes legally disqualified to engage in the practice of law, he or she shall forthwith sever all employment with the limited liability company.

A limited liability company actually and actively engaged in the practice of law may hold shares of stock in a professional corporation covered by R. 1:21-1A, and may hold interests in another limited liability company covered by this rule.

(e) At least one member of the limited liability company shall be licensed to practice law in New Jersey. In addition, if the limited liability company has an operating agreement that provides for the management of the limited liability company by managers, at least one of the managers shall be a member who is licensed to practice law in New Jersey.

(f) A limited liability company may engage in the practice of law in partnership with another limited liability company or companies, professional corporation or corporations covered by Rule 1:21-1A, or with any attorney or partnership of attorneys, including limited liability partnerships covered by Rule 1:21-1C. The partnership name shall, in addition to meeting the requirements of Rule 1:21-1B(c), clearly designate that it is a partnership of or including other limited liability companies, professional corporations, partnerships, limited liability partnerships,or attorneys, as applicable. When any member of a partnership is a foreign limited liability company, foreign professional corporation, or foreign partnership or attorney, the required designation shall also state this fact. When the limited liability company is engaged in the practice of law in partnership with another limited liability company, corporation, partnership, or attorney, all disciplinary rules and rules of practice applicable to partnerships of attorneys will apply.

Note: Adopted November 18, 1996 to be effective January 1, 1997.

1:21-1C. Limited Liability Partnerships for the Practice of Law

(a) Attorneys may engage in the practice of law as limited liability partnerships in the same manner as an individual or a partnership may engage in the practice of law, provided that:

(1) All provisions of the Uniform Partnership Act, N.J.S.A. 42:1A-1 through 56, shall be complied with, except where inconsistent with these rules. For a limited liability partnership that is a foreign limited liability partnership, N.J.S.A. 42:1A-50 through 54 shall apply, except where inconsistent with these rules and except that an attorney practicing in this State who is a member, employee, agent, or representative of such a limited liability partnership shall not be shielded from personal liability for his or her own negligence, omissions, malpractice, wrongful acts, or misconduct, and that of any person under his or her direct supervision and control while rendering professional services on behalf of the limited liability partnership.

(2) The limited liability partnership shall comply with and be subject to all rules governing the practice of law by attorneys and it shall do nothing which, if done by an individual attorney would violate the standards of professional conduct applicable to attorneys licensed to practice law in this State. Any violation of this rule by the limited liability partnership shall be grounds for the Supreme Court to terminate or suspend the limited liability partnership's right to practice law or otherwise to discipline it.

(3) The limited liability partnership shall obtain and maintain in good standing one or more policies of lawyers' professional liability insurance which shall

insure the limited liability partnership against liability imposed upon it by law for damages resulting from any claim made against the limited liability partnership by its clients arising out of the performance of professional services by attorneys employed by the limited liability partnership in their capacities as attorneys. The insurance shall be in the amount for each claim of at least $100,000 multiplied by the number of attorneys employed by the limited liability partnership, provided that the maximum coverage shall not be required to exceed $5,000,000 for each claim, and further provided that the deductible portion of such insurance shall not exceed $10,000 multiplied by the number of attorneys employed by the limited liability partnership or $500,000, whichever is less. The limited liability partnership may enter into an indemnity agreement with its insurer under which the limited liability partnership agrees to indemnify the insurer for losses in excess of the amount of the permitted deductible provided that the insurer remains liable to pay all judgments against the limited liability partnership up to the policy limits regardless whether the limited liability partnership indemnifies the insurer as required under the indemnity agreement.

(b) Within 30 days after filing its application, or in the case of a foreign limited liability partnership, the filing of its registration with the Secretary of State, each limited liability partnership engaged in the practice of law shall file with the Clerk of the Supreme Court a certificate of insurance, issued by the insurer, setting forth the name and address of the insurance company writing the insurance policies required by paragraph (a)(3) of this rule and the policy number and policy limits. The limited liability partnership shall also file such other information as the Supreme Court may from time to time prescribe.

Amendments to and renewals of the certificate of insurance shall be filed with the Clerk of the Supreme Court within 30 days after the date on which such amendments or renewals become effective.

(c) The name of the limited liability partnership shall comply with the provisions of RPC 7.5 and shall contain only the full or last names of one or more of its partners or partners of a predecessor firm, whether the partner be living, deceased or retired. Wherever the name of the limited liability partnership is used it shall be followed by the phrase "A limited liability partnership," or by any other phrase or abbreviation authorized by N.J.S.A. 42:1A-48 to indicate that it is a limited liability partnership. In the case of a foreign limited liability partnership, the phrase shall also identify the jurisdiction of formation (e.g., "A limited liability partnership formed in the State of New York"). The limited liability partnership name shall be used on all pleadings, correspondence or other documents. Correspondence, pleadings and other documents executed in connection with the practice of law shall be executed on behalf of the limited liability partnership by one of its attorney partners or employees. Partnership documents executed other than in connection with the practice of law may be executed on behalf of the limited liability partnership by an authorized employee who is not licensed to practice law.

(d) A limited liability partnership actually and actively engaged in the practice of law may hold shares of stock in a professional corporation covered by Rule 1:21-1A, and may hold an interest in a limited liability company covered by Rule 1:21-1B.

(e) A limited liability partnership may engage in the practice of law in partnership with another partnership of attorneys, including a limited liability partnership, with a professional corporation or corporations covered by Rule 1:21-1A, with a limited liability company or companies covered by Rule 1:21-1B, or with an attorney or partnership of attorneys. The limited liability partnership name shall, in addition to meeting the requirements of Rule 1:21-1C(c), clearly designate that it is a partnership of or including other partnerships, limited liability partnerships, professional corporations, limited liability companies, or attorneys, as applicable. When any member of a limited liability partnership is a foreign partnership, foreign professional corporation, foreign limited liability company, or foreign attorney, the required designation shall also state this fact.

Note: Adopted November 18, 1996 to be effective January 1, 1997; paragraphs (a)(1) and (c) amended July 28, 2004 to be effective September 1, 2004.

1:21-2. Appearances Pro Hac Vice

(a) Conditions for Appearance.

(1) An attorney of any other United States jurisdiction, of good standing there, whether practicing law in such other jurisdiction as an individual or a member or employee of a partnership or an employee of a professional corporation or limited liability entity authorized to practice law in such other jurisdiction, or an attorney admitted in this State, of good standing, may, at the discretion of the court in which any matter is pending, be permitted, pro hac vice, to speak in such matter in the same manner as an attorney of this State who is in compliance with Rule 1:21-1(a)(1). Except for attorneys who are employees of and are representing the United States of America or a sister state, no attorney shall be admitted under this rule without annually complying with Rule 1:20-1(b), Rule 1:28-2, and Rule 1:28B-1(e) during the period of admission. An attorney granted admission pro hac vice in accordance with this rule must include a copy of the order granting such permission when submitting to the New Jersey Lawyers' Fund for Client Protection the annual fee provided for by Rule 1:20-1 and the other rules referred to herein. An attorney admitted both in this State and any other jurisdiction shall not, however, be permitted to appear pro hac vice if for any reason disqualified from practice in this State.

(2) A foreign attorney (licensed outside the United States), of good standing there, whether practicing law in such foreign jurisdiction as an individual or a member or employee of a partnership or an employee of a professional corporation or limited liability entity authorized to practice law in such foreign jurisdiction, may, at the discretion of the court in which any matter is pending, be permitted, pro hac vice, to speak in such matter in the same manner as an attorney of this State who is in compliance with Rule 1:21-1(a)(1). A foreign attorney may not advise the client on the

substantive law of a United States jurisdiction or on procedural issues. New Jersey counsel must accompany the foreign attorney at all proceedings. No foreign attorney shall be admitted under this rule without annually complying with Rule 1:20-1(b), Rule 1:28-2, and Rule 1:28B-1(e) during the period of admission. A foreign attorney granted admission pro hac vice in accordance with this rule must include a copy of the order granting such permission when submitting to the New Jersey Lawyers' Fund for Client Protection the annual fee provided for by Rule 1:20-1 and the other Rules referred to herein. A foreign attorney admitted both in this State and any other jurisdiction shall not, however, be permitted to appear pro hac vice if for any reason disqualified from practice in this State.

(b) Application for Admission. An application for admission pro hac vice shall be made on motion to all parties in the matter; which shall contain the following:

(1) In civil, criminal, and municipal actions, the motion shall be supported by an affidavit or certification of the attorney stating that:

(A) the attorney is a member in good standing of the bar of the highest court of the state in which the attorney is domiciled or principally practices law or, for foreign attorneys, the attorney is a member in good standing of the bar of the highest court of the jurisdiction in which the attorney is domiciled or principally practices law;

(B) the attorney is associated in the matter with New Jersey counsel of record qualified to practice pursuant to Rule 1:21-1;

(C) the client has requested to be represented by said attorney; and

(D) no disciplinary proceedings are pending against the attorney in any jurisdiction and no discipline has previously been imposed on the attorney in any jurisdiction. If discipline has previously been imposed, the certification shall state the date, jurisdiction, nature of the ethics violation and the penalty imposed. If proceedings are pending, the certification shall specify the jurisdiction, the charges and the likely time of their disposition. An attorney admitted pro hac vice shall have the continuing obligation during the period of such admission promptly to advise the court of a disposition made of pending charges or of the institution of new disciplinary proceedings.

(E) With regard to foreign attorneys, associated New Jersey counsel must submit a separate affidavit stating that he or she has evaluated the foreign attorney's credentials and certifies his or her satisfaction with them.

(2) In criminal and municipal actions a motion so supported shall be granted unless the court finds, for specifically stated reasons, that there are supervening considerations of judicial administration.

(3) In civil actions the motion shall be granted only if the court finds, from the supporting affidavit, that there is good cause for such admission, which shall include at least one of the following:

(A) the cause in which the attorney seeks admission involves a complex field of law in which the attorney is a specialist, or

(B) there has been an attorney-client relationship with the client for an extended period of time, or

(C) there is a lack of local counsel with adequate expertise in the field involved, or

(D) the cause presents questions of law involving the law of the outside jurisdiction in which the applicant is licensed, or

(E) there is need for extensive discovery or other proceedings in the outside jurisdiction in which the applicant is licensed, or

(F) such other reason similar to those set forth in this subsection as would present good cause for the pro hac vice admission.

(c) Contents of Order. The order granting admission pro hac vice shall require the attorney to:

(1) abide by these rules, including all disciplinary rules;

(2) consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against the attorney or the attorney's firm that may arise out of the attorney's participation in the matter;

(3) notify the court immediately of any matter affecting the attorney's standing at the bar of any other court; and

(4) have all pleadings, briefs and other papers filed with the court signed by an attorney of record authorized to practice in this State, who shall be held responsible for them and for the conduct of the cause and of the admitted attorney therein. The order may contain further requirements concerning the participation of New Jersey counsel as the court from time to time deems necessary.

(d) Appearances in Subsequent Courts. An attorney permitted to speak pro hac vice by order entered by the trial court may speak in the cause on appeal by filing with the clerk of the appellate court a copy of the trial court's order together with a certification stating that all the conditions of the order have been complied with and, to the extent applicable, will continue to be complied with in the appellate court.

(e) Revocation of Permission to Appear. The court may, on its own or a party's motion, withdraw the permission to appear granted pursuant to this rule for good cause shown. In the event of said revocation, the court shall make such further order respecting the further progress of the litigation as the circumstances may require.

Note: Source -- R.R. 1:12-8. Amended December 16, 1969 effective immediately; caption and text amended November 27, 1974 to be effective April 1, 1975; amended January 10, 1979 to be effective immediately; former rule amended and redesignated as paragraphs (a) and (b) and paragraph (c) adopted July 22, 1983 to be effective September 12, 1983; paragraph (a) amended January 31, 1984 to be effective February 15, 1984; new paragraph (c) adopted and former paragraph (c) redesignated as paragraph (d) November 1, 1985 to be effective January 2, 1986; paragraph (a) amended November 5, 1986 to be effective January 1, 1987; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; paragraphs (b)(2) and (3) amended July 13, 1994 to be effective September 1, 1994; paragraph (a)(1)(iv) added June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii), and (a)(1)(iv) amended and redesignated as (a)(1)(A), (a)(1)(B), (a)(1)(C), and (a)(1)(D) July 5, 2000 to be effective September 5, 2000; paragraph (a) amended and subsections of paragraph (a)(3) redesignated from (i) through (vi) to (A) through (F) July 12, 2002 to be effective September 3, 2002; paragraph (a) amended, portion of paragraph (a) redesignated as new paragraph (b), and former paragraphs (b), (c), and (d) redesignated as (c), (d), and (e) July 28, 2004 to be effective September 1, 2004; paragraph (a) amended July 9, 2013 to be effective September 1, 2013; paragraph (a) amended and redesignated as (a)(1), new paragraph (a)(2) adopted, paragraphs (b)(1) and (b)(1)(A) amended, new paragraph (b)(1)(E) adopted, paragraph (b)(2) amended, paragraphs (b)(3)(D) and (E) amended August 1, 2016 to be effective September 1, 2016.

1:21-3. Appearance by Law Graduates and Students; Special Permission for Out-of-State Attorneys

(a) Appearance Prior to Passing Bar Examination. Appearance Prior to Passing Bar Examination. A graduate of a law school approved by the American Bar Association may, before passing the bar examination, appear in any court for the purpose of answering the calendar call in an action in which the attorney or firm employing the graduate is the attorney of record.

(b) Appearance by Law Students and Graduates. Appearance by Law Students and Graduates. A third year law student at, or graduate of, a law school approved by the American Bar Association may appear before a trial court or agency in conjunction with a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3), or an agency of municipal, county or state government certified under 1:21-11(b)(3). Permission to appear pursuant to this paragraph by a law graduate who has not passed the New Jersey bar examination shall terminate upon the graduate’s failure to pass the bar examination for the third time, or after two years of employment following graduation, whichever is sooner.

(c) Permission for Out-of-State Attorneys to Practice in This State. Permission for Out-of-State Attorneys to Practice in This State. A graduate of an approved law school who is a member of the bar of another state or of the District of Columbia and is employed by, associated with, or serving as a volunteer pro bono attorney with a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3), shall be permitted to practice, under the supervision of a member of the bar of the State, before all courts of this State in all causes on behalf of such entities, subject to the following conditions:

(1) Permission for an out-of-state attorney to practice under this rule shall become effective on filing with the Clerk of the Supreme Court evidence of graduation from an approved law school, a certificate of any court of last resort certifying that the out-of-state attorney is a member in good standing of the bar of another state or of the District of Columbia, and a statement that the out-of-state attorney is currently employed by, associated with, or serving on a voluntary pro bono basis with a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3), which statement shall be signed by the entity's lead attorney who practices law in New Jersey;

(2) Permission to practice under this rule shall apply only in matters in which the out-of-state attorney is employed by, associated with, or serving as a volunteer pro bono attorney with a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3);

(3) Permission to practice in this State under this rule may be revoked or suspended by the Supreme Court, in its discretion, at any time either by written notice to the out-of-state attorney or by amendment or deletion of this rule; and

(4) Out-of-state attorneys permitted to practice under this rule are not, and shall not represent themselves to be, members of the bar of this State.

Note: Source - R.R. 1:12-8A(a)(b)(c). Caption amended and paragraph (d) adopted July 1, 1970 effective immediately; paragraph (c) amended July 7, 1971 to be effective September 13, 1971; paragraph (a) amended April 2, 1973 to be effective immediately; paragraph (c) amended July 17, 1975 to be effective September 8, 1975; caption and paragraph (a) amended July 29, 1977 to be effective September 6, 1977; paragraph (c) amended July 16, 1979 to be effective September 10, 1979; paragraph (c) amended October 9, 1979 to be effective immediately but amendment stayed October 31, 1979; paragraph (c) amended July 21, 1980 to be effective September 8, 1980; paragraph (d) amended July 16, 1981 to be effective September 14, 1981; former paragraph (b) deleted and former paragraphs (c) and (d) redesignated as (b) and (c) November 1, 1985 to be effective January 2, 1986; paragraphs (a), (b) and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended July 12, 2002 to be effective September 3, 2002; paragraph (c) amended July 27, 2006 to be effective September 1, 2006; paragraphs (a), (b) and (c) amended, and subparagraphs (c)(1) and (c)(2) amended, former subparagraphs (c)(3) and (c)(4) deleted, and former subparagraphs (c)(5) and (c)(6) redesignated as (c)(3) and (c)(4) July 22, 2014 to be effective January 1, 2015.

1:21-4. Attorneys for Consuls of Any Government Not Recognized

Attorneys for consuls-general or consular officers of any government not recognized by the United States of America shall have no authority, as such, to appear in any action or proceedings in court or to receive distribution of any estate or other fund.

Note: Source-R.R. 4:118-9.

1:21-5. Counsellors; Masters Abolished

The titles of Counsellor-at-law of this State, Master of the Superior Court, and Special Master, Commissioner or Examiner of the Superior Court are abolished.

Note: Source-R.R. 1:21-1, 1:21-2, 1:21-3.

1:21-6. Recordkeeping; Sharing of Fees; Examination of Records

(a) Required Trust and Business Accounts. Every attorney who practices in this state shall maintain in a financial institution in New Jersey, in the attorney's own name, or in the name of a partnership of attorneys, or in the name of the professional corporation of which the attorney is a member, or in the name of the attorney or partnership of attorneys by whom employed:

(1) a trust account or accounts, separate from any business and personal accounts and from any fiduciary accounts that the attorney may maintain as executor, guardian, trustee, or receiver, or in any other fiduciary capacity, into which trust account or accounts funds entrusted to the attorney's care shall be deposited; and

(2) a business account into which all funds received for professional services shall be deposited.

One or more of the trust accounts shall be the IOLTA account or accounts required by Rule 1:28A.

Other than fiduciary accounts maintained by an attorney as executor, guardian, trustee, or receiver, or in any other similar fiduciary capacity, all attorney trust accounts, whether general or specific, as well as all deposit slips and checks drawn thereon, shall be prominently designated as an "Attorney Trust Account." Nothing herein shall prohibit any additional descriptive designation for a specific trust account. All business accounts, as well as all deposit slips and all checks drawn thereon, shall be prominently designated as an "Attorney Business Account," an "Attorney Professional Account," or an "Attorney Office Account." The IOLTA account or accounts shall each be designated "IOLTA Attorney Trust Account."

The names of institutions in which such primary attorney trust and business accounts are maintained and identification numbers of each account shall be recorded on the annual registration form filed with the annual payment, pursuant to Rule 1:20-1(b) and Rule 1:28-2, to the Disciplinary Oversight Committee and the New Jersey Lawyers' Fund for Client Protection. Such information shall be available for use in accordance with paragraph (h) of this rule. For all IOLTA accounts, the account numbers, the name the account is under, and the depository institution shall be indicated on the registration statement. The signed annual registration statement required by Rule 1:20-1(c) shall constitute authorization to depository institutions to convert an existing non-interest bearing account to an IOLTA account.

(b) Account Location; Financial Institution's Reporting Requirements. An attorney trust account shall be maintained only in New Jersey financial institutions approved by the Supreme Court, which shall annually publish a list of such approved institutions. A financial institution shall be approved if it shall file with the Supreme Court an agreement, in a form provided by the Court, to report to the Office of Attorney Ethics in the event any properly payable attorney trust account instrument is presented against insufficient funds, irrespective of whether the instrument is honored; any such agreement shall apply to all branches of the financial institution and shall not be canceled except on thirty days' notice in writing to the Office of Attorney Ethics. The agreement shall further provide that all reports made by the financial institution shall be in the following format: (1) in the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor; (2) in the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of the overdraft created thereby. Such reports shall be made simultaneously with, and within the time provided by law for, notice of dishonor, if any; if an instrument presented against insufficient funds is honored, then the report shall be made within five banking days of the date of presentation for payment against insufficient funds.

In addition, each financial institution approved by the Supreme Court must co-operate with the IOLTA Program, and must offer an IOLTA account to any attorney who wishes to open one, and must from its income on such IOLTA accounts remit to the Fund the amount remaining after providing such institution a just and reasonable return equivalent to its return on similar non-IOLTA interest-bearing deposits. These remittances shall be monthly unless otherwise authorized by the Fund.

Nothing herein shall prevent an attorney from establishing a separate interest-bearing account for an individual client in accordance with these rules, providing that all interest earned shall be the sole property of the client and may not be retained by the attorney.

In addition to the reports specified above, approved financial institutions shall agree to cooperate fully with the Office of Attorney Ethics and to produce any attorney trust account or attorney business account records on receipt of a subpoena therefor.

Digital images of these records may be maintained by financial institutions provided that: (a) imaged copies of checks shall, when printed (including, but not limited to, when images are provided to the attorney with a monthly statement or otherwise or when subpoenaed by the Office of Attorney Ethics), be limited to no more than two checks per page (showing the front and back of each check) and (b) all digital records shall be maintained for a period of seven years. Nothing herein shall preclude a financial institution from charging an attorney or law firm for the reasonable cost of producing the reports and records required by this Rule. Every attorney or law firm in this state shall be conclusively deemed to have consented to the reporting and production requirements mandated by this Rule.

(c) Required Bookkeeping Records.

(1) Attorneys, partnerships of attorneys and professional corporations who practice in this state shall maintain in a current status and retain for a period of seven years after the event that they record:

(A) appropriate receipts and disbursements journals containing a record of all deposits in and withdrawals from the accounts specified in paragraph (a) of this rule and of any other bank account which concerns or affects their practice of law, specifically identifying the date, source and description of each item deposited as well as the date, payee and purpose of each disbursement. All trust account receipts shall be deposited intact and the duplicate deposit slip shall be sufficiently detailed to identify each item. All trust account withdrawals shall be made only by attorney authorized financial institution transfers as stated below or by check payable to a named payee and not to cash. Each electronic transfer out of an attorney trust account must be made on signed written instructions from the attorney to the financial institution. The financial institution must confirm each authorized transfer by returning a document to the attorney showing the date of the transfer, the payee, and the amount. Only an attorney admitted to practice law in this state shall be an authorized signatory on an attorney trust account, and only an attorney shall be permitted to authorize electronic transfers as above provided; and

(B) an appropriate ledger book, having at least one single page for each separate trust client, for all trust accounts, showing the source of all funds deposited in such accounts, the names of all persons for whom the funds are or were held, the amount of such funds, the description and amounts of charges or withdrawals from such accounts, and the names of all persons to whom such funds were disbursed. A regular trial balance of the individual client trust ledgers shall be maintained. The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of moneys received in trust for the client, and deducting the total of all moneys disbursed; and

(C) copies of all retainer and compensation agreements with clients; and

(D) copies of all statements to clients showing the disbursement of funds to them or on their behalf; and

(E) copies of all bills rendered to clients; and

(F) copies of all records showing payments to attorneys, investigators or other persons, not in their regular employ, for services rendered or performed; and

(G) originals of all checkbooks with running balances and check stubs, bank statements, prenumbered cancelled checks and duplicate deposit slips, except that, where the financial institution provides proper digital images or copies thereof to the attorney, then these digital images or copies shall be maintained; all checks,

withdrawals and deposit slips, when related to a particular client, shall include, and attorneys shall complete, a distinct area identifying the client's last name or file number of the matter; and

(H) copies of all records, showing that at least monthly a reconciliation has been made of the cash balance derived from the cash receipts and cash disbursement journal totals, the checkbook balance, the bank statement balance and the client trust ledger sheet balances; and

(I) copies of those portions of each client's case file reasonably necessary for a complete understanding of the financial transactions pertaining thereto.

(2) ATM or cash withdrawals from all attorney trust accounts are prohibited.

(3) No attorney trust account shall have any agreement for overdraft protection.

(d) Type and Availability of Bookkeeping Records. The financial books and other records required by paragraphs (a) and (c) of this rule shall be maintained in accordance with generally accepted accounting practice. Bookkeeping records may be maintained by computer provided they otherwise comply with this rule and provided further that printed copies and computer files in industry-standard formats can be made on demand in accordance with this section or section (h). They shall be located at the principal New Jersey office of each attorney, partnership or professional corporation and shall be available for inspection, checks for compliance with this Rule and copying at that location by a duly authorized representative of the Office of Attorney Ethics. When made available pursuant to this rule, all such books and records shall remain confidential except for the purposes thereof or by direction of the Supreme Court, and their contents shall not be disclosed by anyone in such a way as to violate the attorney-client privilege.

(e) Dissolutions. Upon the dissolution of any partnership of attorneys or of any professional corporation, the former partners or shareholders shall make appropriate arrangements for the maintenance by one of them or by a successor firm of the records specified in paragraph (c) of this rule.

(f) Attorneys Practicing With Foreign Attorneys or Firms. All of the requirements of this rule shall be applicable to every attorney rendering legal services in this state regardless whether affiliated with or otherwise related in any way to an attorney, partnership, legal corporation, limited liability company, or limited liability partnership formed or registered in another state.

(g) Attorneys Associated With Out of State Attorneys. An attorney who practices in this state shall maintain and preserve for seven years a record of all fees received

and expenses incurred in connection with any matter in which the attorney was associated with an attorney of another state.

(h) Availability of Records. Any of the records required to be kept by this rule shall be produced in response to a subpoena duces tecum issued in connection with an ethics investigation or hearing pursuant to R. 1:20-1 to 1:20-11, or shall be produced at the direction of the Disciplinary Review Board or the Supreme Court. They shall be available upon request for review and audit by the Office of Attorney Ethics. Every attorney shall be required to cooperate and to respond completely to questions by the Office of Attorney Ethics regarding all transactions concerning records required to be kept under this rule. When so produced, all such records shall remain confidential except for the purposes of the particular proceeding and their contents shall not be disclosed by anyone in such a way as to violate the attorney-client privilege. When produced or examined during the course of a disciplinary or random audit, both the attorney or law firm and the producers and licensors of computerized software shall be conclusively deemed to have consented to the use of said software by disciplinary authorities as evidence during the course of the disciplinary proceeding.

(i) Disciplinary Action. An attorney who fails to comply with the requirements of this rule in respect of the maintenance, availability and preservation of accounts and records or who fails to produce or to respond completely to questions regarding such records as required shall be deemed to be in violation of R.P.C. 1.15(d) and R.P.C. 8.1(b).

(j) Unidentifiable and Unclaimed Trust Fund Accumulations and Trust Funds Held for Missing Owners. When, for a period in excess of two years, an attorney's trust account contains trust funds which are either unidentifiable, unclaimed, or which are held for missing owners, such funds shall be so designated. A reasonable search shall then be made by the attorney to determine the beneficial owner of any unidentifiable or unclaimed accumulation, or the whereabouts of any missing owner. If the beneficial owner of an unidentified or unclaimed accumulation is determined, or if the missing beneficial owner is located, the funds shall be delivered to the beneficial owner when due. Trust funds which remain unidentifiable or unclaimed, and funds which are held for missing owners, after being designated as such, may, after the passage of one year during which time a diligent search and inquiry fails to identify the beneficial owner or the whereabouts of a missing owner, be paid to the Clerk of the Superior Court for deposit with the Superior Court Trust Fund. The Clerk shall hold the same in trust for the beneficial owners or for ultimate disposition as provided by order of the Supreme Court. All applications for payment to the Superior Court Clerk under this section shall be supported by a detailed affidavit setting forth specifically the facts and all reasonable efforts of search, inquiry and notice. The Clerk of the Superior Court may decline to accept funds where the petition does not evidence diligent search and inquiry or otherwise fails to conform with this section.

Note: Source-R.R. 1:12-5A(a)(b)(c). Caption amended and paragraph (d) adopted July 1, 1970 effective immediately; paragraph (c) amended July 7, 1971 to be effective September 13, 1971; paragraph (a) amended April 2, 1973 to be effective immediately; paragraph (c) amended July 17, 1975

to be effective September 8, 1975; caption and paragraph (a) amended July 29, 1977 to be effective September 6, 1977. Paragraphs (a) and (b) amended, new paragraph (c) adopted and former paragraphs (c), (d), (e), (f) and (g) redesignated and amended February 23, 1978 to be effective April 1, 1978; paragraphs (b), (c) and (h) amended November 22, 1978 to be effective January 1, 1979; paragraph (a) amended July 16, 1979 to be effective September 10, 1979; paragraph (b) amended July 16, 1981 to be effective September 14, 1981; paragraphs (a), (b), (c), (g) and (h) amended January 31, 1984 to be effective February 15, 1984 except that the amendments to paragraph (a)(2) regarding designations to be placed on trust and business accounts shall not be effective until July 1, 1984; effective date of amendment to paragraph (a)(2) deferred on June 15, 1984 from July 1, 1984 to September 1, 1984; paragraphs (a)(1) and (2), (e)(1) and (h) amended July 26, 1984 to be effective September 10, 1984; paragraphs (a), (e) and (f) amended November 1, 1984 to be effective March 1, 1985; paragraphs (b) and (c) amended and paragraph (i) adopted November 5, 1986 to be effective January 1, 1987; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; paragraph (a)(2) amended September 15, 1992, to be effective January 1, 1993; former paragraph (e) deleted and new paragraph (e) adopted November 18, 1996, to be effective January 1, 1997; paragraph (a) amended, new paragraph (b) added, former paragraphs (b) through (i) redesignated as paragraphs (c) through (j), and redesignated paragraphs (c), (d), (e), (h), and (i) amended July 12, 2002 to be effective September 3, 2002; caption of Rule and paragraphs (a) and (b) amended February 6, 2003 to be effective March 1, 2003; paragraph (c) , (e), (f), (g), and (j) amended July 28, 2004 to be effective September 1, 2004; paragraph (b) amended July 9, 2008 to be effective September 1, 2008.

1:21-7. Contingent Fees

(a) As used in this rule the term "contingent fee arrangement" means an agreement for legal services of an attorney or attorneys, including any associated or forwarding counsel, under which compensation, contingent in whole or in part upon the successful accomplishment or disposition of the subject matter of the agreement, is to be in an amount which either is fixed or is to be determined under a formula.

(b) An attorney shall not enter into a contingent fee arrangement without first having advised the client of the right and afforded the client an opportunity to retain the attorney under an arrangement for compensation on the basis of the reasonable value of the services.

(c) In any matter where a client's claim for damages is based upon the alleged tortious conduct of another, including products liability claims and claims among family members that are subject to Part V of these Rules but excluding statutorily based discrimination and employment claims, and the client is not a subrogee, an attorney shall not contract for, charge, or collect a contingent fee in excess of the following limits:

(1) 33⅓% on the first $750,000 recovered;

(2) 30% on the next $750,000 recovered;

(3) 25% on the next $750,000 recovered;

(4) 20% on the next $750,000; and

(5) on all amounts recovered in excess of the above by application for reasonable fee in accordance with the provisions of paragraph (f) hereof; and

(6) where the amount recovered is for the benefit of a client who was a minor or mentally incapacitated when the contingent fee arrangement was made, the foregoing limits shall apply, except that the fee on any amount recovered by settlement before empaneling of the jury or, in a bench trial, the earlier to occur of plaintiff's opening statement or the commencement of testimony of the first witness, shall not exceed 25%.

(d) The permissible fee provided for in paragraph (c) shall be computed on the net sum recovered after deducting disbursements in connection with the institution and prosecution of the claim, whether advanced by the attorney or by the client, including investigation expenses, expenses for expert or other testimony or evidence, the cost of briefs and transcripts on appeal, and any interest included in a judgment pursuant to R. 4:42-11(b); but no deduction need be made for post-judgment interest or for liens, assignments or claims in favor of hospitals or for medical care and treatment by doctors and nurses, or similar items. The permissible fee shall include legal services rendered on any appeal or review proceeding or on any retrial, but this shall not be deemed to require an attorney to take an appeal. When joint representation is undertaken in both the direct and derivative action, or when a claim for wrongful death is joined with a claim on behalf of a decedent, the contingent fee shall be calculated on the aggregate sum of the recovery.

(e) Paragraph (c) of this rule is intended to fix maximum permissible fees and does not preclude an attorney from entering into a contingent fee arrangement providing for, or from charging or collecting a contingent fee below such limits. In all cases contingent fees charged or collected must conform to RPC 1.5(a).

(f) If at the conclusion of a matter an attorney considers the fee permitted by paragraph (c) to be inadequate, an application on written notice to the client may be made to the Assignment Judge or the designee of the Assignment Judge for the hearing and determining of a reasonable fee in light of all the circumstances. This rule shall not preclude the exercise of a client's existing right to a court review of the reasonableness of an attorney's fee.

(g) Where the amount of the contingent fee is limited by the provisions of paragraph (c) of this rule, the contingent fee arrangement shall be in writing, signed both by the attorney and the client, and a signed duplicate shall be given to the client. Upon conclusion of the matter resulting in a recovery, the attorney shall prepare and furnish the client with a signed closing statement.

(h) Calculation of Fee in Structured Settlements. As used herein the term "structured settlement" refers to the payment of any settlement between the parties or judgment entered pursuant to a proceeding approved by the Court, the terms of which provide for the payment of the funds to be received by the plaintiff on an installment

basis. For purposes of paragraph (c), the basis for calculation of a contingent fee shall be the value of the structured settlement as herein defined. Value shall consist of any cash payment made upon consummation of the settlement plus the actual cost to the party making the settlement of the deferred payment aspects thereof. In the event that the party paying the settlement does not purchase the deferred payment component, the actual cost thereof shall be the actual cost assigned by that party to that component. For further purposes of this rule, the party making the settlement offer shall, at the time the offer is made, disclose to the party receiving the settlement offer its actual cost and, if it does not purchase the deferred payment aspect of the settlement, the factors and assumptions used by it in assigning actual cost.

(i) Calculation of Fee in Settlement of Class or Multiple Party Actions. When representation is undertaken on behalf of several persons whose respective claims, whether or not joined in one action, arise out of the same transaction or set of facts or involve substantially identical liability issues, the contingent fee shall be calculated on the basis of the aggregate sum of all recoveries, whether by judgment, settlement or both, and shall be charged to the clients in proportion to the recovery of each. Counsel may, however, make application for modification of the fee pursuant to paragraph (f) of this rule in appropriate cases.

Note: Source -- R. 1:21-6(f), as adopted July 7, 1971 to be effective September 13, 1971 and deleted December 21, 1971 to be effective January 31, 1972. Adopted December 21, 1971 to be effective January 31, 1972. Amended June 29, 1973 to be effective September 10, 1973. Paragraphs (c) and (e) amended October 13, 1976, effective as to contingent fee arrangements entered into on November 1, 1976 and thereafter. Closing statements on all contingent fee arrangements filed as previously required between January 31, 1972 and January 31, 1973 shall be filed with the Administrative Office of the Courts whenever the case is closed; paragraph (c) amended July 29, 1977 to be effective September 6, 1977; paragraph (d) amended July 24, 1978 to be effective September 11, 1978; paragraph (c) amended and new paragraphs (h) and (i) adopted January 16, 1984, to be effective immediately; paragraph (d) amended July 26, 1984 to be effective September 10, 1984; paragraph (e) amended June 29, 1990 to be effective September 4, 1990; paragraphs (b) and (c)(5) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended June 28, 1996 to be effective September 1, 1996; paragraph (c) amended January 21, 1999 to be effective April 5, 1999; paragraphs (g) and (h) amended July 5, 2000 to be effective September 5, 2000; paragraph (c) amended July 12, 2002 to be effective September 3, 2002; paragraphs (d) and (f) amended July 9, 2008 to be effective September 1, 2008; paragraph (f) amended July 19, 2012 to be effective September 4, 2012; paragraph (c) amended July 22, 2014 to be effective September 1, 2014.

[1:21-7A. Retainer Agreements in Family Actions]

[deleted in its entirety January 21, 1999 to be effective April 5, 1999; see new Rule 5:3-5 regarding retainer agreements in family actions]

1:21-8. [Deleted]

Note: R. 1:21-8 redesignated as paragraph (a) in R. 1:20-20 effective March 1, 1995.

1:21-9. Certification and Practice of Foreign Legal Consultants

(a) Certification of Foreign Legal Consultants. No person who is admitted to practice in a foreign country as an attorney or counselor at law or the equivalent may render legal services in this State unless and until that person complies with the provisions in this rule and becomes certified by the Supreme Court as a foreign legal consultant. In that capacity, such person may render legal services within this State to the extent permitted by this rule.

(b) Conditions of Representation. A foreign legal consultant may, at the discretion of the Supreme Court, be permitted to represent New Jersey clients for the sole purpose of rendering professional legal advice on the laws, rules, regulations or any other matters involving the foreign country in which the foreign legal consultant is licensed. The foreign legal consultant shall associate and consult with a New Jersey attorney and the associating New Jersey attorney shall assume full responsibility for the conduct of the foreign legal consultant.

(c) Eligibility. In its discretion the Supreme Court may certify as a foreign legal consultant an applicant who:

(1) for a period of not less than 5 of the 7 years immediately preceding the date of application has been admitted to practice and has been in good standing as an attorney or counselor at law or the equivalent in a foreign country and has engaged either (A) in the practice of law in such country or (B) in a profession or occupation which requires as a prerequisite admission to practice and good standing as an attorney or counselor at law or the equivalent in such country; and

(2) possesses the good moral character customarily required for admission to the practice of law in this State; and

(3) intends to practice in compliance with R. 1:21-1(a)(1).

(d) Applications.

(1) Application for admission under this rule shall be made to the Clerk of the Supreme Court. The application shall be supported by an affidavit of the applicant, which shall provide: (A) the applicant's name and age; (B) the applicant's last place of residence; (C) the character and duration of the applicant's formal legal education or training; (D) the name of and date of attendance at each university or post graduate level educational institution which the applicant has attended and/or graduated from, and the degree conferred, if any; (E) the names of all courts or other licensing authorities to which the applicant has applied for admission to the practice of law or certification or licensure as a foreign legal consultant; (F) the names of all courts or other licensing authorities under the auspices of which the applicant has taken any bar or equivalent examinations, the dates upon which said examinations were taken and the results thereof; (G) the names of all courts and other licensing authorities by which the

applicant has actually been licensed to practice as an attorney or counselor at law or equivalent or certified or licensed as a foreign legal consultant and the dates of each licensure or certification; (H) a statement that the applicant is admitted to practice and is in good standing as an attorney or counselor at law or the equivalent in a foreign country and has maintained that status for a period of not less than five of the seven years immediately prior to the date of the application; (I) a statement that the applicant possesses the good moral character customarily required for admission to the practice of law in New Jersey; (J) the identity of a New Jersey attorney holding a plenary license to practice law in this State who is in good standing with the Supreme Court with whom the applicant shall associate; and (K) a statement advising whether the applicant is currently or has ever been the subject of any investigation or proceeding for professional misconduct and whether the applicant has ever been rejected upon an application for admission to practice before any court or by any other licensing authority. If the applicant has been the subject of any investigation or proceeding for professional misconduct or has been rejected for admission to practice, the applicant shall state the date, jurisdiction, nature of the violation, and penalty imposed and may set forth a brief explanation of the disposition and any extenuating or mitigating circumstances. An applicant admitted under this rule shall have a continuing obligation to advise the Court of a disposition made of a pending charge or the institution of new disciplinary proceedings. A filing fee, set by order of the Supreme Court, shall accompany each application.

(2) The application shall be accompanied by the following documents, together with duly authenticated English translations of each document that is not in English:

(A) Duly executed certificates and/or documents from the authority having final jurisdiction over professional discipline in the foreign country in which the applicant is admitted to practice attesting to:

(i) the authority's jurisdiction in such matters;

(ii) the applicant's admission to practice in such foreign country, the date thereof and the applicant's current good standing as an attorney or counselor at law or the equivalent therein; and

(iii) whether any charge or complaint has ever been filed against the applicant with such authority, and, if so, the nature and substance of the allegations of each such charge or complaint and the disposition thereof.

(B) A letter of recommendation from one of the members of the executive body of such authority or from one of the judges of a court of general original or appellate jurisdiction within such foreign country, setting forth the applicant's professional qualifications, together with a certificate from the clerk of such authority or of such court, as the case may be, attesting to the office held by the person signing the letter and the genuineness of the person's signature.

(C) Letters of recommendation from at least two attorneys or counselors at law or the equivalent admitted to practice and practicing in such foreign country, setting forth the length of time and circumstances under which they have come to know the applicant,and their appraisal of the applicant's moral character.

(D) Letters of recommendation from at least two attorneys admitted to the practice of law in this State, setting forth the length of time and circumstances under which they have come to know the applicant, and their appraisal of the applicant's moral character.

(E) An affidavit of the New Jersey attorney with whom the foreign legal consultant will associate in which the New Jersey counsel agrees to the association and acknowledges that he or she will be responsible for the conduct of the foreign legal consultant. An associating attorney is one who voluntarily agrees to assume full responsibility for the foreign legal consultant as described in sections (b), (d), (e) and (f) of this rule.

(F) Such other relevant documents or information as may be requested by the Supreme Court.

(3) The statements contained in the application and supporting documents shall be investigated by the Supreme Court or its designee. Prior to granting certification as a foreign legal consultant, the Supreme Court shall be satisfied that the applicant is of the good moral character. The application shall be granted by the Court unless there is a finding of good cause for denying the application.

(e) Contents of Order. The order granting admission shall require that:

(1) the foreign legal consultant shall:

(A) abide by this rule; and

(B) consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against the foreign legal consultant or the New Jersey attorney with whom such person has associated that may arise out of the foreign legal consultant's participation in a matter; and

(C) notify the Supreme Court immediately of any matter affecting the foreign legal consultant's standing at the bar of any other court; and

(2) the associating New Jersey attorney shall assume full responsibility for the conduct of the foreign legal consultant.

(f) Advertising of Foreign Legal Consultant's Practice.

(1) A foreign legal consultant and the associating New Jersey attorney may advertise the admission of the foreign legal consultant and permitted scope of practice consistent with this rule and the laws and regulations of this State;

(2) A foreign legal consultant shall be listed and identified on the letterhead of the associating New Jersey attorney with appropriate designation and limitation of practice as a foreign legal consultant under this rule.

(g) Scope of Practice. A person licensed as a foreign legal consultant under this rule may render and be compensated for the performance of legal services within the State, but specifically shall not:

(1) appear for another person as attorney in any court or before any other judicial officer or administrative agency in the State, or sign or file in the capacity of a lawyer or legal advisor any pleadings or any other papers in any action or proceeding brought in any such court or before any judicial officer or administrative agency; or

(2) prepare any deed, mortgage, assignment, discharge, lease, agreement or contract of sale or any other instrument for purposes of recordation which may affect title to real estate located in the United States of America, its territories, districts or possessions; or

(3) prepare:

(A) any will or trust instrument effecting the disposition of any property located in the United States of America, its territories, districts or possessions and owned by a resident thereof; or

(B) any instrument relating directly to the primary administration of a decedent's estate in the United States of America, its territories, districts or possessions; or

(4) prepare any instrument in respect of the marital relations, rights or duties of a resident of the United States of America, its territories, districts or possessions or the custody or care of the children of such a resident; or

(5) render professional legal advice on the laws of this State or the United States of America or any other state, territory, district or possession of the United States of America or any foreign country other than a country to the bar of which the foreign legal consultant is admitted as an attorney or counselor at law or the equivalent (whether rendered incident to the preparation of legal instruments or otherwise), except on the basis of advice from a person admitted to the practice of law as an attorney of this State or such other state, territory, district or possession or as an attorney or counselor at law or the equivalent in such other foreign country, who has been consulted by the foreign legal consultant in the particular matter at hand and who has been identified to the client by name; or

(6) in any way represent that such person is licensed as an attorney at law of this State, or as an attorney at law or foreign legal consultant of another state territory or district, or as an attorney or counselor at law or the equivalent of a foreign country, unless so licensed; or

(7) use any title other than "foreign legal consultant"; provided that such person's authorized title and firm name in the foreign country in which such person is admitted to practice as an attorney or counselor at law or the equivalent may be used, provided that the title, firm name, and the name of such foreign country are stated together with the title "foreign legal consultant" and further provided that such use does not create the impression that the foreign legal consultant holds a plenary license to practice law in this State.

(h) Conduct and Discipline.

(1) The professional conduct of foreign legal consultants, as limited by section (g) of this rule, shall be governed in all respects by the Rules of Professional Conduct of the American Bar Association, as amended and supplemented by the Supreme Court and included as an Appendix to Part I of these rules.

(2) For purposes of Rules 1:14, 1:16, 1:19, 1:20, 1:20A, 1:21-6, 1:21-7, 1:22, 1:25, 1:27-3, 1:28 and 1:29, a foreign legal consultant shall be deemed a member of the legal profession and shall be subject to the same requirements and procedures as an attorney and member of the bar holding a plenary license to practice law in the State of New Jersey. However, nothing in this subsection shall be construed as expanding the scope of practice authorized by section (g) of this rule. No foreign legal consultant shall be admitted under this rule without annually complying with R. 1:20-1(b) and R. 1:28-2 during the period of admission.

(3) All admissions under this rule shall be valid for a period of 12 months and may be renewed annually.

Note: Adopted November 7, 1988 to be effective January 2, 1989; paragraph (a) amended, new paragraph (b) added, former paragraph (b) amended and redesignated as paragraph (c), former paragraph (c) amended and redesignated as paragraph (d), former paragraph (d) deleted, new paragraphs (e) and (f) added, former paragraph (e) amended and redesignated as paragraph (g), and former paragraph (f) amended and redesignated as paragraph (h) July 12, 2002 to be effective September 3, 2002; paragraph (c) amended July 9, 2013 to be effective September 1, 2013.

1:21-10. Provision of Legal Services Following Determination of Major Disaster

(a) Determination of Existence of Major Disaster. Solely for purposes of this Rule, the Supreme Court shall determine when an emergency affecting the justice system, as a result of a natural or other major disaster, has occurred:

(1) in New Jersey and whether the emergency caused by the major disaster affects all or only a part of the State, or

(2) in another jurisdiction, but only after such a determination and its geographical scope have been made by the highest court of that jurisdiction. The authority to engage in the temporary practice of law in New Jersey pursuant to paragraph (c) of this Rule shall extend only to lawyers who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services.

(b) Temporary Practice in New Jersey Following Major Disaster. Following the determination of an emergency affecting the justice system in New Jersey pursuant to paragraph (a) of this Rule, or a determination that persons displaced by a major disaster in another jurisdiction and residing in New Jersey are in need of pro bono services and the assistance of lawyers from outside of New Jersey is required to help provide such assistance, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this jurisdiction on a temporary basis. Such legal services must be provided on a pro bono basis without compensation, expectation of compensation or other direct or indirect pecuniary gain to the lawyer. Such legal services shall be assigned and supervised through a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3), or through such organization(s) specifically designated by the Court.

(c) Temporary Practice in New Jersey Following Major Disaster in Another Jurisdiction. Following the determination of a major disaster in another United States jurisdiction, a lawyer who is authorized to practice law and who principally practices in that affected jurisdiction, and who is not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in New Jersey on a temporary basis. Those legal services must arise out of and be reasonably related to that lawyer's practice of law in the jurisdiction, or area of such other jurisdiction, where the major disaster occurred.

(d) Duration of Authority for Temporary Practice.

(1) The authority to practice law in New Jersey granted by paragraph (b) of this Rule shall end when the Supreme Court determines that the conditions caused by the major disaster in New Jersey have ended, except that a lawyer then representing clients in New Jersey pursuant to paragraph (b) of this Rule is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation, but the lawyer shall not thereafter accept new clients.

(2) The authority to practice law in New Jersey granted by paragraph (c) of this Rule shall end 60 days after the Supreme Court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.

(e) Court Appearances. The authority granted by this Rule does not include appearances in court except:

(1) pursuant to R. 1:21-2 (appearances pro hac vice) and, if such admission is granted, the fees for such admission shall be waived; or

(2) if the Supreme Court, in any determination made under paragraph (a) of this Rule, grants blanket permission to appear in all or designated courts of this jurisdiction to lawyers providing legal services pursuant to paragraph (b) of this Rule. If such permission is granted, any pro hac vice admission fees shall be waived.

(f) Disciplinary Authority, Registration, Lawful Practice of Law. Lawyers providing legal services in New Jersey pursuant to this Rule:

(1) are subject to the Supreme Court's disciplinary authority and the Rules of Professional Conduct;

(2) shall, within 30 days from the commencement of the provision of legal services in New Jersey, file a registration statement with the Clerk of the Supreme Court. The registration statement shall be in a form prescribed by the Supreme Court;

(3) shall not be considered to be engaged in the unlawful practice of law in New Jersey; and

(4) shall not be required to comply with R. 1:20-1(b) or (c), R. 1:28-2 or R. 1:28B-1 (payment of annual assessments and filing of annual registration statement with New Jersey Lawyers' Fund for Client Protection).

(g) Notification to Clients. Lawyers who provide legal services pursuant to this Rule shall inform clients in New Jersey of the jurisdiction in which they are authorized to practice law, any limits of that authorization, and that they are not authorized to practice law in New Jersey except as permitted by this Rule. They shall not state or imply to any person that they are otherwise authorized to practice law in New Jersey.

Note: Adopted July 9, 2008 to be effective September 1, 2008; paragraph (b) amended July 22, 2014, to be effective January 1, 2015.

1:21-11. Definitions and Certifications Regarding Pro Bono Practice

(a) Definitions.

(1) Qualifying Pro Bono Service. Qualifying pro bono service consists of:

(i) legal assistance to low-income persons;

(ii) legal assistance to nonprofit charitable, religious, civic, community, or educational organizations or governmental entities in matters that are designed primarily to address the needs of low-income persons;

(iii) legal assistance to individuals, groups, or organizations seeking to secure, protect, or advance civil rights, civil liberties, or other rights of great public importance; or

(iv) legal assistance to nonprofit charitable, religious, civic, community, or educational organizations or governmental entities in matters in furtherance of their purposes, where payment of standard legal fees would significantly deplete the organization's or entity's economic resources or would otherwise be inappropriate.

Qualifying pro bono service does not include partisan political activity or service on a nonprofit board of directors or other service that is unrelated to the provision of legal representation or legal advice. It does include legal mentoring and training to prepare attorneys, or students in a law school clinical or pro bono program as defined in subsection (a)(3), to provide qualifying pro bono service.

Qualifying pro bono service is undertaken outside the course of ordinary commercial practice and is performed without a fee from the client. If a fee-shifting statute applies in a qualifying pro bono case, attorneys or firms in commercial practice may seek fees and are strongly encouraged to donate them to a legal services or public interest organization or law school clinical or pro bono program as defined in subsections (a)(2) and (3). If an attorney or firm in commercial practice retains fees in a qualifying pro bono case, no attorney may claim an exemption from court-appointed pro bono service based on the hours expended on that case. See R. 1:21-12(b). Cases accepted on a contingency-fee basis do not constitute qualifying pro bono service regardless of whether the attorney receives a fee.

(2) Legal Services or Public Interest Organization. Legal Services of New Jersey and the associated regional programs are legal services organizations. Other legal services or public interest organizations include any nonprofit organization incorporated in this or any state with a central purpose of providing qualifying pro bono service as defined in subsection (a)(1).

(3) Law School Clinical or Pro Bono Program. A law school clinical or pro bono program is one that operates under the auspices of a law school accredited in this state and has a central purpose of providing qualifying pro bono service as defined in subsection (a)(1).

(b) Certifications.

(1) Certification of Legal Services or Public Interest Organizations and Law School Clinical or Pro Bono Programs.

Legal Services of New Jersey and the associated regional programs shall be deemed certified under this Rule without the need to file certifications.

Except as provided in subsection (b)(3), any other legal services or public interest organization or law school clinical or pro bono program that provides legal assistance at least in part through the cooperation of pro bono volunteers and seeks to take advantage of the opportunities offered in Rules 1:21-12(a) (Madden-exemption based on pro bono service in conjunction with certified organization or program); 1:21-3(b), (c) (special practice rule for law students, recent graduates, and out-of-state attorneys); 1:21-10 (special practice rule following determination of major disaster); or 1:27-2(g) (special practice rule for limited license attorneys) shall:

(i) file with the Clerk of the Supreme Court an initial certification on a Judiciary-approved form, signed by the organization's or program's lead attorney who practices law in New Jersey, demonstrating that the organization or program meets the definition in subsection (a)(2) or (3) of this rule, provided, however, that any organization or program that has already received Supreme Court approval as of the date of this Rule, as reflected in a list to be made available by the Administrative Director of the Courts, shall not be required to provide such a certification; and

(ii) file with the Clerk of the Supreme Court, by April 30 of every year, a certification on a Judiciary-approved form signed by the organization's or program's lead attorney who practices law in New Jersey certifying

(a) that the organization or program continues to meet the definition in subsection (a)(2) or (3) of this rule; and

(b) a list of attorneys who have provided qualifying pro bono service under the auspices of the organization or program in the preceding year;

(iii) notify the Clerk of the Supreme Court at such time as the organization or program no longer meets the definition in subsection (a)(2) or (3) of this rule.

An organization or program that fails to timely file its yearly certification under R. 1:21-11(b)(1)(ii) will lose its status as a certified entity under subsection (b)(1).

(2) Approval and Certification for Waiver of Fees. Legal Services of New Jersey and the associated regional programs shall be deemed eligible, without the need to seek approval or file certifications, for a waiver of fees without the necessity of a court order as provided in R. 1:13-2(a).

Any other public interest or legal services organization or law school clinical or pro bono program may seek approval for such a waiver by filing a certification on a Judiciary- approved form with the Clerk of the Supreme Court, which may be included with an initial certification filed under subsection (b)(1)(i), demonstrating that the organization or program screens its clients to establish their low incomes, provided,

however, that organizations and programs that have already received Supreme Court approval for a fee waiver as of the date of this Rule, and submit documentation of such prior approval to the Clerk of the Supreme Court, shall not be required to provide such a certification.

If approval is granted, the entity shall:

(i) file with the Clerk of the Supreme Court by April 30 of every year a certification on a Judiciary-approved form, which may be included with the certifications filed annually under subsection (b)(1)(ii), demonstrating that the organization or program continues to screen its clients to establish their low incomes; and

(ii) notify the Clerk of the Supreme Court at such time as the organization or program, or any part thereof, no longer screens clients to establish their low incomes.

An organization or program which fails to timely file its yearly certification under R. 1:21-11(b)(2)(i) shall lose the ability to waive fees under R. 1:13-2.

(3) Certification of Governmental Entities.

Federal, state, or local governmental entities which provide legal assistance at least in part through the cooperation of pro bono volunteers and seek to take advantage of the opportunities offered in Rules 1:21-12(a) (Madden-exemption based on pro bono service in conjunction with certified organization or program); 1:21-3(b), (c) (special practice rule for law students, recent graduates, and out-of-state attorneys); 1:21-10 (special practice rule following determination of major disaster); or 1:27-2(g) (special practice rule for limited license attorneys) shall:

(i) file with the Clerk of the Supreme Court an initial certification on a Judiciary-approved form, signed by the government entity's lead attorney who practices law in New Jersey, provided, however, that any government entity that has already received Supreme Court approval as of the date of this Rule, as reflected in a list to be made available by the Administrative Director of the Courts, shall not be required to provide such a certification; and

(ii) file with the Clerk of the Supreme Court, by April 30 of every year, a certification on a Judiciary-approved form signed by the government entity's lead attorney who practices law in New Jersey certifying a list of attorneys who have provided qualifying pro bono service under the auspices of the government entity in the preceding year.

A government entity that fails to timely file its yearly certification under R. 1:21-11(b)(3) will lose its status as a certified entity.

Note: Adopted July 22, 2014 to be effective January 1, 2015.

1:21-12. Madden-Exemption Based on Voluntary Qualifying Pro Bono Service

(a) Exemption Based on Qualifying Pro Bono Service in Conjunction with a Certified Entity. Attorneys who certify that they have performed at least twenty-five (25) hours of voluntary (as distinct from court-appointed) qualifying pro bono service in New Jersey in the year ending on December 31 before the certification date shall be exempt from court-appointed pro bono service under Madden v. Delran, 126 N.J. 591 (1992), for the following year, provided that the certification states that the voluntary qualifying pro bono service was performed in conjunction with an entity certified under R. 1:21-11(b)(1) or (3) and identifies the entity with which the attorney collaborated.

(b) No Madden-Exemption If Attorney Retains Fees. If an attorney or firm in commercial practice retains fees (as distinct from costs) in a qualifying pro bono case, whether awarded by a court or negotiated in settlement of a matter in which a fee-shifting statute applies, no attorney may claim an exemption from court-appointed pro bono service based on the hours expended on that case.

Note: Adopted July 22, 2014 to be effective January 1, 2015.