


Notice to the Bar

**SUPREME COURT ADOPTION OF AMENDMENTS
TO RULE 1:21-1 (“BONA FIDE OFFICE”)**

In its 2010-2012 report the Supreme Court Professional Responsibility Rules Committee (PRRC) recommended amendments to Rule 1:21-1 relating to the bona fide office requirement. The Court has considered the report and recommendations of the committee and the comments received on those recommendations. The Court on January 15, 2013 adopted amendments to Rule 1:21-1, published with this notice, which will be effective February 1, 2013. The Court has asked the PRRC to review any other Court Rules and Rules of Professional Conduct that use “bona fide office” terminology (e.g., Rule 1:21-1(a) (one remaining reference), Rule 1:21-2(a), Rule 1:21-9(c)(3), and RPC 5.5(c)(5)) and make appropriate recommendations to the Court.



Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: January 17, 2013

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to Rule 1:21-1 of the Rules Governing the Courts of the State of New Jersey are adopted to be effective February 1, 2013.

For the Court,

A handwritten signature in blue ink, appearing to read "Stuart Rosen", is written over the text "For the Court".

Chief Justice

Dated: January 15, 2013

Rule 1:21-1. Who May Practice; Attorney Access and Availability; 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 [, has complied with the Rule 1:26 skills and methods course requirement in effect on the date of the attorney's admission], is in good standing, and complies with the following requirements: [, except as provided in paragraph (d) of this Rule, maintains a bona fide office for the practice of law. For the purpose of this section, a bona fide office is a place where clients are met, files are kept, the telephone is answered, mail is received and the attorney or a responsible person acting on the attorney's behalf can be reached in person and by telephone during normal business hours to answer questions posed by the courts, clients or adversaries and to ensure that competent advice from the attorney can be obtained within a reasonable period of time. For the purpose of this section, a bona fide office may be located in this or any other state, territory of the United States, Puerto Rico, or the District of Columbia (hereinafter "a United States jurisdiction"). An attorney who practices law in this state and fails to maintain a bona fide office shall be deemed to be in violation of RPC 5.5(a).]

(1) An attorney need not maintain a fixed physical location, 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] does not maintain a fixed physical location for the practice of law in this State [and does not have a bona fide office in this State], but who meets all [the] other 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 [all actions, including disciplinary actions, that may arise out of the practice of law and activities related thereto], 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 maintain a bona fide office.

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) . . . no change

(c) . . . no change

(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 [maintaining a bona fide law office in this state].

(e) . . . no change

(f) . . . no change

(g) . . . no change

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.

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/s/ Glenn A. Grant

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: January 17, 2013

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to Rule 1:21-1 of the Rules Governing the Courts of the State of New Jersey are adopted to be effective February 1, 2013.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: January 15, 2013

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