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Ms. Bridget Gernander  
Clerk of Appellate Courts  
305 Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155

*Re: Association of Corporate Counsel's support for amending Minnesota bar admission rules to allow in-house lawyers with house counsel status to provide pro bono services.*

Dear Ms. Gernander:

Minnesota has a historic opportunity to recognize that the state's in-house lawyers with house counsel status have the sophistication, the experience, and the capacity to help the enormous number of Minnesota residents who need legal services but cannot afford to pay. On behalf of the Association of Corporate Counsel, its Minnesota Chapter, and the Minnesota chief legal officers listed below, we are writing to state our strong support for the goals underlying the proposal to amend Rule 10 for Admission to the Bar and request that a broader amendment be adopted that both includes in-house lawyers who register under Rule 9, and removes unnecessary restrictions on pro bono work provided by in-house attorneys practicing under Rules 9 and 10.

ACC is a global bar association that promotes the common professional and business interests of in-house counsel, with over 30,000 members employed by over 10,000 organizations in more than 75 countries. For years, ACC has advocated across the country to remove obstacles that make it difficult for many in-house lawyers to donate their legal expertise to people who need help. ACC's Minnesota Chapter has over 600 members representing more than 180 companies and organizations. It serves as a valuable resource to in-house counsel from legal departments of all sizes. The chapter provides continuing legal education courses, networking and social events, and other services to its members. Minnesota's ACC chapter also supports this effort to allow more in-house lawyers to offer pro bono legal services.

There's no question that people need more pro bono help, both in Minnesota and across the country. According to the Legal Services Corporation, fewer than "one in five low-income persons get the legal assistance they need" from pro bono or legal aid lawyers. Legal Services Corporation, Documenting the Justice Gap In America: The Current Unmet Civil Legal Needs of Low-Income Americans, An Updated Report of the Legal Services Corporation (2009). *See also* American Bar Association, Legal Needs and Civil Justice, A Survey of Americans (1994) (stating that, for low-income households, the

justice system does not address nearly three quarters of situations in which courts might intervene).

In-house legal departments are already making strong contributions toward meeting this need. Hundreds of in-house legal departments have formalized efforts to provide pro bono legal services. According to Corporate Pro Bono, a partnership of the Pro Bono Institute and ACC, many of the Fortune 500 companies, a majority of Fortune 100 companies, and a number of companies in Minnesota have set up or are moving to set up formal pro bono programs. They want to do more, but state practice rules often stand in their way.

We applaud that the proposal before the Court would broaden the scope of in-house lawyers who can provide pro bono assistance. However, we note that the proposal is fairly modest compared to the approach other states have taken and does not fully recognize that Minnesota's registered in-house attorneys are well-qualified, ethical lawyers, which is why their employers hire them, and why Minnesota already allows them to serve their employers, under Rules 9 and 10. For instance, the proposed amendment would allow in-house lawyers to work on pro bono matters only when referred by approved pro bono organizations, which under Rules of the Supreme Court for Continuing Legal Education of the Bar 2(B) would exclude several sources of pro bono opportunities, including in-house pro bono programs. And the amendment would not allow registered lawyers to represent pro bono clients in state courts. By contrast, in Virginia and Colorado, registered lawyers can provide the full range of legal services to their pro bono clients, without working through referral services, even in state courts. ACC is not aware of any evidence of abuse or other issues in Virginia or Colorado.

While the proposed measure in Minnesota is a step in the right direction, we urge the Minnesota Supreme Court to consider the following two specific changes to the proposal, which would expand the benefits of the proposed amendment even further.

First, include Rule 9 house counsel in the proposed pro bono amendment. Under Rule 9 for Admission to the Bar, house counsel can work for their employers for up to 12 months, pending bar admission by other means, including Rule 10. Including Rule 9 house counsel in the amendment would allow still more in-house lawyers in Minnesota to volunteer for pro bono work.

Second, expand the group of clients who qualify for pro bono assistance under the proposal. The proposal, through its references to the Continuing Legal Education Rules, limits pro bono representation to "pro bono clients," which is defined as individuals, and so excludes many worthy clients qualified for pro bono service under MRPC 6.1, including charitable, religious, civic, community, governmental, and educational organizations. The proposal further limits those in-house counsel who are able to serve by restricting pro bono work to those referred by an "approved legal services provider." For staffing and budget reasons, many of the legal service providers exclude a number of worthy and genuinely needy clients, such as non-profit organizations that often cannot afford to pay for legal work, and restrict the types of matters they support. The proposal

additionally limits legal departments from working with the full range of organized programs that support services to needy clients. Therefore, we recommend that the Court adopt a rule without restriction as to the type of client or the referral source.

With or without these recommended adjustments, the pending proposal would continue the spirit of a resolution passed this summer by the Conference of Chief Justices, to expand pro bono legal services. That resolution supports allowing “non-locally licensed in-house counsel who are permitted to work for their employer to also provide pro bono legal services.” Conf. of Chief Justices, Resol. 11 (passed July 25, 2012) (<http://ccj.ncsc.dni.us/AccessToJusticeResolutions/resol11ProBonoLegalServices.html>).

In short, the proposal recognizes that lawyers who help their corporations and organizations with difficult problems can also help people in legal distress who cannot pay. By adopting this amendment to Minnesota’s rules, especially with the changes that we proposed above, the Minnesota Supreme Court can help countless people in need.

Sincerely yours,



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