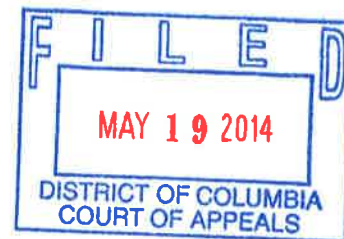


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May 19, 2014

Clerk
D.C. Court of Appeals
430 E Street, N.W.
Suite 209
Washington, D.C. 20001

To Whom It May Concern:

We are writing with regard to the proposed addition of Rule 49 (c)(9)(D) to D.C. App. R. 49, which would allow in-house counsel who are not barred in D.C., but who are admitted and in good standing in other jurisdictions and permitted to work for their employers in D.C. under Rule 49(c)(6) (“Internal Counsel”), to also provide pro bono legal services. As in-house counsel, either admitted to practice in D.C. or working as Internal Counsel, we encourage the Court to adopt Rule 49 (c)(9)(D) as an interim step, to be reconsidered when the Court reviews Rule 49 in its entirety later this year.

The proposed Rule 49 (c)(9)(D) is a step in the right direction in that it empowers Internal Counsel to engage in pro bono; currently, there is no provision that provides for their participation. However, as proposed, the rule includes several restrictions that are detrimental to in-house counsels’ engagement in pro bono. These restrictions provide that Internal Counsel must (i) be assigned a pro bono case by a legal services organization *and* (ii) be supervised by an active member of the D.C. Bar *and* (iii) give notice of their status to the courts and the public in order to provide pro bono legal services. As a result, the proposed rule would be among the most restrictive in-house pro bono rules in the country.

Rules that limit pro bono participation by Internal Counsel not only hinder their ability to engage in pro bono, they narrow the opportunities legal departments can offer to all of their members, thereby reducing the total pool of volunteers. These rules also minimize the in-house community’s influence on law firms to increase their pro bono engagement and the in-house community’s support of local legal services organizations.

Our companies, which include General Electric Company, UnitedHealth Group Incorporated, and Verizon Communications Inc., have established pro bono programs and encourage our lawyers to utilize their legal skills and experience to provide pro bono legal services to those in need. Our companies also work with outside law firms and legal services organizations, including the D.C. Bar Pro Bono Program, to expand access to justice in the communities in which we live and work. Practice rule restrictions that limit Internal Counsels’ participation in pro bono hamstring the development of these ever-growing pro bono efforts.

For example, currently, Internal Counsel are not able to participate in the D.C. Bar Pro Bono Program's court-based referral centers. These referral centers, among the programs at the heart of the D.C. Bar Pro Bono Program, served more than 6,700 pro se individuals in 2013, yet they still need more volunteers. (*See*, Washington Lawyer, April 2014). GE and Arnold & Porter have partnered in the past to staff the D.C. Bar Pro Bono Program's Landlord Tenant Resource Center and GE would like to expand its participation by organizing its efforts around a single program for all GE lawyers, regardless of D.C. bar status. Under the proposed rule, GE's Internal Counsel would be able to participate, but only if the requirements of the proposed rule are met, including that Internal Counsel be supervised by a lawyer licensed in D.C. When the need for volunteers is so great, mandating supervision, whether needed or not, is a waste of precious resources which not only negatively impacts GE's pro bono program but those who are in need of assistance.

In the past three years, ten jurisdictions have adopted or amended rules permitting non-locally licensed in-house counsel permitted to work for their employer to also provide pro bono legal services. More and more of those jurisdictions are removing unnecessary restrictions such as affiliation and supervision from existing practice rules (Illinois Rule 716(g) and Virginia Rule 1A:5) or adopting rules without such restrictions (New York Rule 522.8).

As we understand, the Court's Unauthorized Practice of Law Committee is currently reviewing Rule 49 in its entirety. Through that process, we would seek to more fully expand Internal Counsel's ability to participate in pro bono by amending Rule 49 (c)(9)(D) to remove unnecessary restrictions, similar to the rules in Colorado, Illinois, New York, and Virginia. We also are happy to offer our assistance to provide the perspective of the in-house bar.

While proposed Rule 49 (c)(9)(D) may be unduly restrictive, it is a first step toward improving D.C.'s rules and D.C. citizens' access to pro bono resources. We encourage the Court to take this first step, thus opening the door to greater opportunities in the future.

Sincerely,

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¹ 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 often make it difficult for the country's experienced and sophisticated in-house lawyers to donate their legal expertise to people who need their help.

² Established in 1980, WMACCA is the leading professional association for the in-house bar throughout Virginia, in Washington, D.C. and in suburban Maryland. WMACCA has approximately 2,300 members from more than 800 private-sector organizations. WMACCA is also one of the largest chapters of ACC.

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