

May 22, 2015

Supreme Court of the Virgin Islands
Veronica J. Handy, Esq., Clerk of the Court
Post Office Box 590
St. Thomas, VI 00804
Sent via email and first-class mail

Re: Amendments to Supreme Court Rule 202

Dear Ms. Handy:

On behalf of the Association of Corporate Counsel (“ACC”), we are writing to strongly support the proposed amendments to Supreme Court Rule 202 that would permit in-house counsel from other U.S. jurisdictions to work for their Virgin Islands-based employer-clients. Enacting this rule would send a strong message that the Virgin Islands legal community encourages economic development by allowing companies to hire the in-house attorneys that best meet their changing business and legal demands, regardless of the U.S. jurisdiction in which they are licensed.

ACC is a global bar association that promotes the common professional and business interests of in-house counsel. Since its founding in 1982, ACC has grown to become the world’s largest organization serving the professional and business interests of lawyers who practice in private-sector legal departments. ACC has over 35,000 members employed by over 10,000 organizations in more than 75 countries. For years, ACC has worked to remove obstacles that can make it difficult for in-house lawyers to practice law for their employers.

ACC has worked to reform rules governing right-to-practice and multi-jurisdictional practice since the Association’s inception. ACC participated in the ABA Multijurisdictional Practice Task Force that drafted ABA Model Rule 5.5(d),¹ which

¹ ABA Model Rule 5.5(d) states:

(d) A lawyer admitted in another United States jurisdiction or in a foreign jurisdiction, and not disbarred or suspended from practice in any jurisdiction or the equivalent thereof, may provide legal services through an office or other systematic and continuous presence in this jurisdiction that:

(1) are provided to the lawyer’s employer or its organizational affiliates; are not services for which the forum requires pro hac vice admission; and, when performed by a foreign lawyer and requires advice on the law of this or another jurisdiction or of the United States, such advice shall be based upon the advice of

permits in-house counsel to work in various states without taking bar exams. We have in the past encouraged other jurisdictions to refrain from implementing unnecessary and burdensome requirements for in-house counsel.

Forty-seven U.S. states have passed rules similar to ABA Model Rule 5.5(d), authorizing practice for in-house counsel from other jurisdictions, and we are pleased that the Virgin Islands is choosing to join these jurisdictions that recognize the legitimate business and legal need for companies to be able to hire and deploy their legal resources across jurisdictional lines. For the benefit of our members and the corporations they serve, we ask the Supreme Court of the Virgin Islands to adopt the proposed rule as currently drafted.

Supreme Court Rule 202.1 as proposed makes good policy sense. The need for this amendment is made clear by examining the realities of today's global economy. Legal issues are not constrained by jurisdictional lines. Increasing numbers of in-house counsel have practices that span many U.S. jurisdictions, and even multiple countries. Companies increasingly find the need to deploy their legal resources in new jurisdictions. The Virgin Islands' current rule would force in-house lawyers from other jurisdictions to take a new bar exam – an obstacle that does not parallel the reality of their day-to-day practice, or the needs of their client-employers. The proposed rule would bring the Virgin Islands more in line with the laws of the overwhelming majority of U.S. states that recognize the importance of in-house counsel to their economies. Notably, this would put the Virgin Islands in a more competitive situation than two other U.S. island jurisdictions: Hawaii and Puerto Rico.

ACC has encountered objections in the past from some admitted lawyers that they might lose work if the bar rules permit multijurisdictional practice by in-house counsel. Not only does this objection contradict the experience of the 47 jurisdictions that have permitted such practice, but it also runs counter to the experience of in-house counsel who, when hired by a company, find legal issues that need to be addressed and therefore retain outside lawyers to assist them.

Finally, we are especially pleased to see that the proposed rule would allow in-house counsel licensed in other jurisdictions the opportunity to participate in pro bono legal services in the Virgin Islands. The ACC has been a strong supporter of efforts to encourage pro bono among in-house attorneys and has sought to remove barriers that restrict the ability of attorneys licensed in other jurisdictions to provide pro bono services in the jurisdiction in which they are employed. We hope the Virgin Islands will benefit from the pro bono services in-house counsel will be able to provide in the same manner

a lawyer who is duly licensed and authorized by the jurisdiction to provide such advice; or

(2) are services that the lawyer is authorized by federal or other law or rule to provide in this jurisdiction.

as the other jurisdictions that have adopted rules regarding pro bono practice by in-house counsel.

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Making it difficult for companies to employ the in-house counsel of their choice undermines the Virgin Islands' efforts to encourage economic development. Fortunately, the proposed amendments to Supreme Court Rule 202 will address this problem. Therefore, ACC strongly urges that the rule be adopted.

Sincerely yours,



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Director of Government and
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Association of Corporate Counsel

cc: Delphine Farr Janney