

FEB 22 2019

ADMINISTRATIVE ORDER 2019-02-20-07

Jorge Navarrete Clerk

IN THE SUPREME COURT OF CALIFORNIA Deputy

EN BANC

**ORDER APPROVING AMENDMENTS TO RULES 9.44, 9.45, and 9.46 OF THE
CALIFORNIA RULES OF COURT AND 3.370-3.377, 3.360-3.367, and 3.400-3.411
OF THE STATE BAR RULES AND APPROVAL OF THE ADOPTION OF RULES
3.350-3.356 OF THE STATE BAR RULES AND THE ADOPTION OF RULE 9.41.1
OF THE CALIFORNIA RULES OF COURT**

The proposed amendments to California Rules of Court, rules 9.44, 9.45, and 9.46, and State Bar Rules 3.370-3.377, 3.360-3.367, and 3.400-3.411 for attorney special admissions recommended for approval by the Board of Trustees of the State Bar of California, are hereby approved.

The court approves adoption of proposed State Bar Rules 3.350-3.356 and approves adoption of proposed California Rules of Court, rule 9.41.1, with approved revisions summarized in Attachment 2 to this order.

These amendments and adoptions are effective March 1, 2019.

CANTIL-SAKAUYE

Chief Justice

Rule 9.41.1. Registered military spouse attorney.**(a) Registered Military Spouse Attorney**

The following definitions apply in this rule:

(1) Definitions

- (A) "Military Spouse Attorney" means an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency and who is married to, in a civil union with, or a registered domestic partner of, a Service Member.
- (B) "Service Member" means an active duty member of the United States Uniformed Services who has been ordered stationed within California.
- (C) "Active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who:
 - (i) Is a licensee in good standing of the entity governing the practice of law in each jurisdiction in which the attorney is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and;
 - (ii) Remains an active licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law as a registered military spouse attorney in California.

(2) Scope of Practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is permitted to practice law in California, under supervision, in all forms of legal practice that are permissible for a licensed attorney of the State Bar of California, including pro bono legal services.

(3) Requirements

For an attorney to qualify to practice law under this rule, the attorney must:

- (A) Be an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- (B) Be married to, be in a civil union with, or be a registered domestic partner of, a Service Member, except that the attorney may continue to practice as a registered military spouse attorney for one year after the termination of the marriage, civil union, or domestic partnership as provided in (a)(9)(A)(vii);

(C) Reside in California:

~~(G)~~ ~~(D)~~ Meet all of the requirements for admission to the State Bar of California, except that the attorney:

- (i) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
- (ii) May practice law while awaiting the result of his or her Application for Determination of Moral Character from the State Bar of California.

~~(D)~~ ~~(E)~~ Comply with the rules adopted by the Board of Trustees relating to the State Bar Registered Military Spouse Attorney Program;

~~(E)~~ ~~(F)~~ Practice law under the supervision of an attorney who is an active licensee in good standing of the State Bar of California who has been admitted to the practice of law for two years or more;

- ~~(F)~~ (G) Abide by all of the laws and rules that govern licensees of the State Bar of California, including the Minimum Continuing Legal Education ("MCLE") requirements;
- ~~(G)~~ (H) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that licensees of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements for the registered military spouse attorney's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered military spouse attorney's compliance group is required to report in less than thirty-six months, the MCLE requirements will be reduced proportionally; and
- ~~(H)~~ (I) Not have taken and failed the California bar examination within five years immediately preceding initial application to register under this rule.

(4) Application

The attorney must comply with the following registration requirements:

- (A) Register as an attorney applicant, file an Application for Determination of Moral Character with the Committee of Bar Examiners, and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (B) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of a California attorney during the time he or she practices law as a military spouse attorney in California; and
- (C) Submit to the State Bar of California a declaration signed by a qualifying supervising attorney. The declaration must attest:
 - (i) that the applicant will be supervised as specified in this rule; and
 - (ii) that the supervising attorney assumes professional responsibility for any work performed by the registered military spouse attorney under this rule.

(5) Application and Registration Fees

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered military spouse attorney.

(6) State Bar Registered Military Spouse Attorney Program

The State Bar may establish and administer a program for registering registered military spouse attorneys under rules adopted by the Board of Trustees of the State Bar.

(7) Supervision

To meet the requirements of this rule, an attorney supervising a registered military spouse attorney:

- (A) Must have practiced law as a full-time occupation for at least four years in any United States jurisdiction;
- (B) Must have actively practiced law in California for at least two years immediately preceding the time of supervision and be a licensee in good standing of the State Bar of California;
- (C) Must assume professional responsibility for any work that the registered military spouse attorney performs under the supervising attorney's supervision;
- (D) Must assist, counsel, and provide direct supervision of the registered military spouse attorney in the activities authorized by this rule, approve in writing any appearance in court, deposition, arbitration or any proceeding by the registered military spouse attorney, and review such activities with the supervised military spouse attorney, to the extent required for the protection of the client or customer;

- (E) Must read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered military spouse attorney before their filing, and must read and approve any documents prepared by the registered military spouse attorney before their submission to any other party;
- (F) Must agree to assume control of the work of the registered military spouse attorney in the event the registration of the military spouse attorney is terminated, in accordance with applicable laws; and
- (G) May, in his or her absence, designate another attorney meeting the requirements of (A) through (F) to provide the supervision required under this rule.

(8) Duration of Practice

A registered military spouse attorney must renew his or her registration annually and may practice for no more than a total of five years under this rule.

(9) Termination of Military Spouse Attorney Registration

(A) Registration as a registered military spouse attorney is terminated

- (i) upon receipt of a determination by the Committee of Bar Examiners that the registered military spouse attorney is not of good moral character;
- (ii) for failure to annually register as a registered military spouse attorney and submit any related fee set by the State Bar;
- (iii) for failure to comply with the Minimum Continuing Legal Education requirements and to pay any related fee set by the State Bar;
- (iv) if the registered military spouse attorney no longer meets the requirements under (a)(1)(C) of this section
- (v) upon the imposition of any discipline by the State Bar of California or any other professional or occupational licensing authority, including administrative or stayed suspension;
- (vi) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a licensee of the State Bar of California;
- (vii) if the Service Member is no longer an active member of the United States Uniformed Services or is transferred to another state, jurisdiction, territory outside of California, except that if the Service Member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse attorney may continue to practice pursuant to the provisions of this rule until the Service Member is assigned to a location with dependents authorized; or
- (viii) one year after the date of termination of the registered military spouse attorney's marriage, civil union, or registered domestic partnership.

- (B) The supervising attorney of registered military spouse attorney suspended by these rules will assume the work of the registered military spouse attorney in accordance with applicable laws.

(10) Inherent Power of Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

(11) Effect of Rule on Multijurisdictional Practice

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not licensees of the State Bar of California.

Adopted as rule 9.41.1 by the Supreme Court effective March 1, 2019

Rule 9.46. Registered in-house counsel [9/05/2018]

(a) Definitions

The following definitions apply to terms used in this rule:

- (1) "Qualifying institution" means a corporation, a partnership, an association, or other legal entity, including its subsidiaries and organizational affiliates, which has an office located in California. Neither a governmental entity nor an entity that provides legal services to others can be a qualifying institution for purposes of this rule. A qualifying institution must:
 - (A) Employ at least ~~40~~ 5 full time employees ~~full time in California~~; or
 - (B) Employ in California an attorney who is an active member licensee in good standing of the State Bar of California.
- (2) "Active member licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who ~~meets all of the following criteria~~:
 - (A) Is a member licensee in good standing of the entity governing the practice of law in each jurisdiction in which the member ~~attorney~~ is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and
 - (B) Remains an active member licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency, other than California, while practicing law as registered in-house counsel in California; ~~and,~~
 - (C) ~~Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.~~

(Subd (a) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (j) effective November 15, 2004.)

(b) Scope of practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is:

- (1) Permitted to provide legal services in California ~~only~~ to the qualifying institution that employs him or her;
- (2) Permitted to provide pro bono legal services under supervision of a California attorney for either eligible legal aid organizations as defined by Rules of Court, rule 9.45(a)(1), or the qualifying institution that employs him or her;
- (~~3~~ 2) Not permitted to make court appearances in California state courts or to engage in any other activities for which *pro hac vice* admission is required if they are performed in California by an attorney who is not a member licensee of the State Bar of California; and
- (~~4~~ 3) Not permitted to provide personal or individual representation to any customers, shareholders, owners, partners, officers, employees, servants, or agents of the qualifying institution, except as described in subdivision (b)(2).

(Subd (b) amended effective , 2018; previously amended and relettered effective January 1, 2007; adopted as subd (a) effective November 15, 2004.)

(c) Requirements

For an attorney to qualify to practice law under this rule, the attorney must:

- (1) Be an active member licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- (2) ~~Register with the State Bar of California and file an Application for Determination of Moral Character;~~
- ~~(2)(3)~~ Meet all of the requirements for admission to the State Bar of California, except that the attorney:
 - (A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
 - (B) May practice law while awaiting the result of his or her Application for Determination of Moral Character;
- ~~(3)(4)~~ Comply with the rules adopted by the Board of Trustees ~~Governors~~ relating to the State Bar Registered In-House Counsel Program;
- ~~(4)(5)~~ Practice law exclusively for a single qualifying institution, except that, while practicing under this rule, the attorney may, if so qualified, simultaneously practice law provide pro bono services through eligible legal aid organizations as a registered legal services attorney;
- ~~(5)(6)~~ Abide by all of the laws and rules that govern members licensees of the State Bar of California, including the Minimum Continuing Legal Education (MCLE) requirements;
- ~~(6)(7)~~ Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that members licensees of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements for the registered in-house counsel's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered in-house counsel's compliance group is required to report in less than thirty-six months, the MCLE requirements will be reduced proportionally; and
- ~~(7)(8)~~ Reside in California.

(Subd (c) amended effective, 2018; previously relettered effective January 1, 2007; adopted as subd (b) effective November 15, 2004.)

(d) Application

~~To qualify to practice law as registered in-house counsel, an~~ The attorney must comply with the following registration requirements:

- (1) Register as an in-house counsel; submit an application for the qualifying institution; register as an attorney applicant and file an Application for Determination of Moral Character with the State Bar of California-Committee of Bar Examiners; and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (2) Submit a supplemental form identifying the eligible legal aid organizations as defined by Rules of Court, rule 9.45(a)(1) and the supervising attorney, through which an in-house counsel intends to provide pro bono services, if applicable;
- ~~(3)~~ 2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than on behalf of the qualifying institution during the time he or she is registered in-house counsel in California, ~~except that if so qualified, the~~

~~attorney may, while practicing under this rule, simultaneously practice law as a registered legal services attorney if supervised, a registered in-house counsel may provide *pro bono* services through an eligible legal aid organization; and~~

~~(4 3)~~ Submit to the State Bar of California a declaration signed by an officer, a director, or a general counsel of the applicant's employer, on behalf of the applicant's employer, The declaration must attesting:

~~(i)~~ that the applicant is employed as an attorney for the employer;_i

~~(ii)~~ that the nature of the employment conforms to the requirements of this rule;_i

~~(iii)~~ that the employer will notify the State Bar of California within 30 days of the cessation of the applicant's employment in California;_i and

~~(iv)~~ that the person signing the declaration believes, to the best of his or her knowledge after reasonable inquiry, that the applicant qualifies for registration under this rule and is an individual of good moral character.

(Subd (d) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (c) effective November 15, 2004.)

(e) Duration of practice

A registered in-house counsel must renew his or her registration annually. There is no limitation on the number of years in-house counsel may register under this rule. Registered in-house counsel may practice law under this rule only for as long as he or she remains employed by the same qualifying institution that provided the declaration in support of his or her application. If an attorney practicing law as registered in-house counsel leaves the employment of his or her employer or changes employers, he or she must notify the State Bar of California within 30 days. If an attorney wishes to practice law under this rule for a new employer, he or she must first register as in-house counsel for that employer.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)

(f) Eligibility

An application to register under this rule may not be denied because:

~~(1) The attorney applicant has practiced law in California as in-house counsel before the effective date of this rule.~~

~~(2) The attorney applicant is practicing law as in-house counsel at or after the effective date of this rule, provided that the attorney applies under this rule within six months of its effective date.~~

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective November 15, 2004.)

(f g) Application and registration fees

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered in-house counsel.

(Subd (g) relettered effective , 2018; previously amended and relettered effective January 1, 2007; adopted as subd (f) effective November 15, 2004.)

(g h) State Bar Registered In-House Counsel Program

The State Bar must establish and administer a program for registering California in-house counsel under rules adopted by the Board of Trustees ~~Governors~~.

(Subd (h) ~~relettered effective , 2018; previously~~ amended and relettered effective January 1, 2007; adopted as subd (g) effective November 15, 2004.)

(h) Inherent power of Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

(Subd (i) ~~relettered effective , 2018; previously~~ amended and relettered effective January 1, 2007; adopted as subd (h) effective November 15, 2004.)

(i) Effect of rule on multijurisdictional practice

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not ~~members~~ licensees of the State Bar of California.

(Subd (j) ~~relettered effective , 2018; previously~~ relettered effective January 1, 2007; adopted as subd (i) effective November 15, 2004.)

Rule 9.46 ~~amended effective , 2018; previously~~ amended and renumbered effective January 1, 2007; adopted as rule 965 by the Supreme Court effective November 15, 2004.

TITLE 3. PROGRAMS AND SERVICES [9/05/2018 Draft]

Adopted July 2007

DIVISION 3. NON- MEMBER LICENSEE ATTORNEYS

Chapter 1. Multijurisdictional Practice

Article 23. Registered In-House Counsel

Rule 3.370 Definitions

- (A) An attorney registered as Registered In-House Counsel is an attorney who meets the eligibility requirements of Rule 9.46 of the California Rules of Court ("Rule 9.46") and is registered by the State Bar as Registered In-House Counsel.
- (B) "Registered" means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as Registered In-House Counsel.
- (C) A "qualifying institution" is a corporation, a partnership, an association, or other legal entity that meets the requirements of Rule of Court 9.46(a)(1).
- (D) "Reside in California" as used in Rule 9.46(c)(8) means to live or be located in California on more than a temporary or transient basis.

Rule 3.370 amended effective , 2018; adopted effective July 1, 2010

Rule 3.371 Application

- (A) To apply to register as Registered In-House Counsel, an attorney who meets the eligibility and employment requirements of Rule 9.46 must
 - (1) submit an Application for Registration¹ as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;²
 - (2) submit an Application for Registered In-House Counsel³ with the fee set forth in the Schedule of Charges and Deadlines;
 - (3) meet State Bar requirements for acceptable moral character; and
 - (4) submit a Declaration signed by an officer, a director, or a general counsel of Qualifying Institution.⁴

¹ See Rule 4.16(B).

² See Rule 4.3(B).

³ See Rule of Court 9.46(d).

⁴ Rule of Court 9.46(a)(1).

- (B) An application to practice law as Registered In-House Counsel may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact in the application.

Rule 3.371 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 3.372 Duties of Registered In-House Counsel

An attorney employed as Registered In-House Counsel must

- (A) annually renew registration as Registered In-House Counsel and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.46;
- (C) use the title "Registered In-House Counsel" ~~and no other~~ in connection with activities performed as Registered In-House Counsel;
- (D) not claim in any way to be a ~~member~~ licensed attorney of the State Bar of California;
- (E) maintain an address of record with the State Bar, which must be the current California office address of the attorney's employer and a current e-mail address;
- (F) report to the State Bar within thirty days
 - (1) a change in status in any jurisdiction where admitted to practice law, such as transfer to inactive status, disciplinary action that affects the attorney's status of good standing, suspension, resignation, disbarment, or a functional equivalent;
 - (2) termination of employment with the qualifying institution; or
 - (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;
- (G) submit a new application to register as Registered In-House Counsel before beginning employment with a new qualifying institution;⁵ and
- (H) otherwise comply with the requirements of Rule 9.46 and these rules.

Rule 3.372 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 3.373 Duties of employer

⁵ Rule of Court 9.46(a)(1).

- ~~(A) A qualifying institution prospectively employing of an attorney applying for registration as Registered In-House Counsel must complete a Declaration of Qualifying Institution.~~
- ~~(B) Within thirty days of ceasing to meet the requirements of Rule of Court 9.46(a), an employer of Registered In-House Counsel must report that to the State Bar that it is no longer a qualifying institution.~~

An employer who meets the requirements of Rule 9.46 for a qualifying institution must

(A) complete the Application for Approval as Qualifying Institution and be approved by the State Bar as a qualifying employer;

(B) complete a Declaration signed by an officer, a director, or a general counsel of the Qualifying Institution, before employing a Registered In-House Counsel, attesting that it

(1) is a qualifying institution;

(2) deems the attorney, on the basis of reasonable inquiry, to be of good moral character;

(3) agrees to notify the State Bar of California, in writing, within thirty days if

(a) the attorney has terminated employment;

(b) the attorney is no longer eligible for employment as required by Rule 9.46 and these rules;

(c) its status as a qualifying institution has changed; or

(d) it has changed its office address.

Rule 3.373 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 3.374 Suspension of Registered In-House Counsel registration

(A) Registration as In-House Counsel is suspended

- (1) for failure to annually register as Registered In-House Counsel and submit any related fee and penalty set forth in the Schedule of Charges and Deadlines;**
- (2) for failure to comply with the Minimum Continuing Legal Education requirement of Rule of Court 9.46 and pay any related fee and penalty set forth in the Schedule of Charges and Deadlines;**
- (3) upon voluntary transfer to inactive status, or the functional**

~~equivalent in any jurisdiction where admitted to practice; or disciplinary action that affects the attorney's status of good standing, suspension, resignation, disbarment, or a functional equivalent in status in any jurisdiction where admitted to practice law;~~

~~(4) upon imposition of discipline by a professional or occupational licensing authority; or~~

~~(4)(5) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a member licensee of the State Bar; or~~

~~(5) for failure to meet the eligibility requirements of Rule 9.46(c)(3), (4), (5), (6), and (7).~~

(B) An attorney suspended under these rules is not permitted to practice law. ~~An attorney suspended for failure to comply with annual renewal or MCLE requirements may be reinstated upon compliance.~~

(C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

Rule 3.374 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 3.375 Termination of Registration

~~(A) Permission to practice law as Registered~~ Registration as In-House Counsel terminates

~~(A) (1) upon for failure to meet the eligibility requirements of Rule 9.46(c)(1) or Rule 9.46(c)(2); failure to meet the eligibility requirements of Rule 9.46 or these rules;~~

~~(B) as required by Rule 9.46 or these rules upon imposition of discipline for misconduct by a professional or occupational licensing authority;~~

~~(C) (2) upon admission to the State Bar;~~

~~(D) (3) upon repeal of Rule 9.46 or termination of the Registered In-House Counsel program; or~~

~~(E)~~ (4) upon request.

(B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as In-House Counsel in order to practice law in California.

(C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

Rule 3.375 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 3.376 Reinstatement after termination

An attorney terminated as Registered In-House Counsel who seeks reinstatement must meet all eligibility and application requirements of Rule 9.46 and these rules.

Rule 3.376 adopted effective July 1, 2010.

Rule 3.377 Public information

State Bar records for attorneys permitted to practice law as Registered In-House Counsel are public to the same extent as ~~member~~ licensed attorney records.

Rule 3.377 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 9.45. Registered legal aid ~~services~~ attorneys [9/05/2018 Draft]

(a) Definitions

The following definitions apply in this rule:

- (1) ~~"Qualifying legal services provider" means either of the following, provided that the qualifying legal services provider follows quality control procedures approved by the State Bar of California:~~

"Eligible legal aid organization" means any of the following:

- (A) ~~A nonprofit entity incorporated and operated exclusively in California that as its primary purpose and function provides legal services without charge in civil matters to indigent persons, especially underserved client groups, such as the elderly, persons with disabilities, juveniles, and non-English-speaking persons; or~~

A nonprofit entity in good standing in California and in the state in which it is incorporated, if other than California, that provides legal aid in civil matters, including family law and immigration law, to indigent and disenfranchised persons, especially underserved client groups, such as the elderly, persons with disabilities, people of color, juveniles, and limited English proficient persons; or

- (B) ~~A program operated exclusively in California by a nonprofit law school approved by the American Bar Association or accredited by the State Bar of California that has operated for at least two years at a cost of at least \$20,000 per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.~~

A nonprofit law school approved by the American Bar Association located in California or accredited by the State Bar of California that provides legal aid as described above in subdivision (A).

- (C) Entities that receive IOLTA funds pursuant to Business and Professions Code, section 6210, et seq., are deemed to be eligible legal aid organizations.

- (2) "Active member licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who:

- (A) is a member licensee in good standing of the entity governing the practice of law in each jurisdiction in which the member attorney is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and

- (B) Remains an active member licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law as a registered legal aid ~~services~~ attorney in California; and,

- (C) ~~Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.~~

(Subd (a) amended effective , 2018; relettered effective January 1, 2007; adopted as subd (j) effective November 15, 2004.)

(b) Scope of practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule may practice law in California only while working, with or without pay, at an eligible legal aid organization a qualifying legal ~~services~~ provider, as defined in this rule, and, at that institution and only on behalf of its clients or customers, may

engage, under supervision, in all forms of legal practice that are permissible for a member licensee of the State Bar of California.

(Subd (b) amended effective . 2018; previously amended and relettered effective January 1, 2007; adopted as subd (a) effective November 15, 2004.)

(c) Requirements

For an attorney to qualify to practice law under this rule, the attorney must:

- (1) Be an active member licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- (2) ~~Register with the State Bar of California and file an Application for Determination of Moral Character;~~
- ~~(2)(3)~~ Meet all of the requirements for admission to the State Bar of California, except that the attorney:
 - (A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
 - (B) May practice law while awaiting the result of his or her Application for Determination of Moral Character;
- ~~(3)(4)~~ Comply with the rules adopted by the Board of Trustees ~~Governors~~ relating to the State Bar Registered Legal Aid Services Attorney Program;
- ~~(5) Practice law exclusively for a single qualifying legal services provider, except that, if so qualified, an attorney may, while practicing under this rule, simultaneously practice law as registered in-house counsel;~~
- ~~(4) (6)~~ Practice law under the supervision of an attorney who is employed by the eligible legal aid organization-qualifying legal services provider and who is a member licensee in good standing of the State Bar of California;
- ~~(5) (7)~~ Abide by all of the laws and rules that govern members licensees of the State Bar of California, including the Minimum Continuing Legal Education (MCLE) requirements;
- ~~(6) (8)~~ Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that members licensees of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements for the registered legal aid attorney's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered legal aid attorney's compliance group is required to report in less than thirty-six months, the MCLE requirements will be reduced proportionally; and
- ~~(7) (9)~~ Not have taken and failed the California bar examination within five years immediately preceding initial application to register under this rule.

(Subd (c) amended and renumbered effective . 2018; previously relettered effective January 1, 2007; adopted as subd (b) effective November 15, 2004.)

(d) Application

To qualify to practice law as a registered legal services attorney, the ~~The~~ attorney must comply with the following registration requirements:

- (1) Register as a legal aid attorney; submit a separate application for each eligible legal aid organization; register as an attorney applicant and file an Application for Determination of Moral Character with the

State Bar of California Committee of Bar Examiners; and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;

- (2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of an attorney at an eligible legal aid organization a qualifying legal services provider during the time he or she practices law as a registered legal aid services attorney in California, ~~except that, if so qualified, the attorney may, while practicing under this rule, simultaneously practice law as registered in-house counsel; and~~
- (3) Submit to the State Bar of California a declaration signed by a qualifying supervisor ~~on behalf of the qualifying legal services provider~~ from each eligible legal aid organization in California. The declaration must attesting;

(i) that the applicant will work, with or without pay, as an attorney for the organization;

(ii) that the applicant will be supervised as specified in this rule; and

(iii) that the eligible legal aid organization qualifying legal services provider and the supervising attorney assume professional responsibility for any work performed by the applicant under this rule;

(iv) that the organization will notify the State Bar of California within 30 days of the cessation of the applicant's employment with that employer in California; and

(v) that the person signing the declaration believes, to the best of his or her knowledge after reasonable inquiry, that the applicant qualifies for registration under this rule and is an individual of good moral character.

(Subd (d) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (c) effective November 15, 2004.)

(e) Duration of practice

An registered legal aid attorney must renew his or her registration annually and may practice for no more than a total of three five years under this rule.

(Subd (e) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)

(f) Application and registration fees

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered legal aid services attorneys.

(Subd (f) amended effective , 2018; previously amended and relettered effective January 1, 2007; adopted as subd (e) effective November 15, 2004.)

(g) State Bar Registered Legal Aid Services Attorney Program

The State Bar may establish and administer a program for registering California legal aid services attorneys under rules adopted by the Board of Trustees ~~Governors~~ of the State Bar.

(Subd (g) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (f) effective November 15, 2004.)

(h) Supervision

To meet the requirements of this rule, an attorney supervising a registered legal aid services attorney:

- (1) ~~Must be an active member in good standing of the State Bar of California~~ Must have practiced law as a full-time occupation for at least four years in any United States jurisdiction;
- (2) ~~Must have actively practiced law in California for at least two years immediately preceding the time of supervision and been a member licensee in good standing of the State Bar of California for at least the two years immediately preceding the time of supervision;~~
- (3) ~~Must have practiced law as a full-time occupation for at least four years;~~
- (4) ~~Must not supervise more than two registered legal services attorneys concurrently;~~
- (3 5) Must assume professional responsibility for any work that the registered legal aid services attorney performs under the supervising attorney's supervision;
- (4 6) Must assist, counsel, and provide direct supervision of the registered legal aid services attorney in the activities authorized by this rule, approve in writing any appearance in court, deposition, arbitration or any proceeding by the registered legal aid attorney, and review such activities with the supervised registered legal aid attorney, to the extent required for the protection of the client or customer;
- (5 7) Must read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered legal aid services attorney before their filing, and must read and approve any documents prepared by the registered legal aid services attorney for execution by any person who is not a member of the State Bar of California before their submission for execution; and
- (6 8) May, in his or her absence, designate another attorney meeting the requirements of (1) through (5) to provide the supervision required under this rule.

(Subd (h) amended and renumbered effective , 2018; previously relettered effective January 1, 2007; adopted as subd (g) effective November 15, 2004.)

(I) Inherent power of Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (h) effective November 15, 2004.)

(J) Effect of rule on multijurisdictional practice

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not members licensees of the State Bar of California.

(Subd (j) relettered effective January 1, 2007; adopted as subd (i) effective November 15, 2004.)

Rule 9.45 amended and renumbered effective , 2018; previously amended and renumbered effective January 1, 2007; adopted as rule 964 by the Supreme Court effective November 15, 2004.

TITLE 3. PROGRAMS AND SERVICES [9/05/2018 Draft]

Adopted July 2007

DIVISION 3. NON- MEMBER LICENSEE ATTORNEYS

Chapter 1. Multijurisdictional Practice

Article 12. Registered Legal Aid Services Attorneys

Rule 3.360 Definitions

- (A) A "Registered Legal Aid Services Attorney" is an attorney who meets the eligibility requirements of Rule 9.45 of the California Rules of Court ("Rule 9.45") and is registered by the State Bar as a Registered Legal Aid Services Attorney.
- (B) "Registered" means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as a Registered Legal Aid-Services Attorney.
- (C) An "eligible legal aid organization ~~qualifying legal services provider~~" is an entity or law school program that meets the requirements of Rule of Court 9.45(a)(1)-~~or that receives a grant from the Legal Services Trust Fund.~~

Rule 3.360 amended effective , 2018; adopted effective July 1, 2010.

Rule 3.361 Application

- (A) To apply to register as a Registered Legal Aid Services Attorney, an attorney who meets the eligibility and employment requirements of Rule 9.45 must
 - (1) submit an Application for Registration¹ as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;²
 - (2) submit an Application for Registered Legal Aid Services Attorney³ with the fee set forth in the Schedule of Charges and Deadlines;
 - (3) meet State Bar requirements for acceptable moral character; and
 - (4) submit a Declaration signed by the attorney from the eligible legal aid organization who will be providing the required supervision. ~~of Qualifying Legal Services Provider.~~

¹ See Rule 4.16(B).

² See Rule 4.3(B).

³ See Rule of Court 9.44.

- (B) An application to practice law as a Registered Legal Aid Services Attorney may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

Rule 3.361 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 3.362 Duties of Registered Legal Aid Services Attorney

An attorney employed as Registered Legal Aid Services Attorney must

- (A) annually renew registration as a Registered Legal Aid Services Attorney and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) practice for no more than a total of ~~three~~ five years as a Registered Legal Aid Services Attorney;
- (C) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.45;
- (D) report a change of attorney supervisor in accordance with State Bar requirements;
- (E) use the title "Registered Legal Aid Services Attorney" and no other in connection with activities performed as a Registered Legal Aid Services Attorney;
- (F) not claim in any way to be a member licensed attorney of the State Bar of California;
- (G) maintain with the State Bar an address of record that is the current California office address of the attorney's employer and a current e-mail address;
- (H) report to the State Bar within thirty days:
 - (1) a change in status in any jurisdiction where admitted to practice law, such as transfer to inactive status, disciplinary action that affects the attorney's status of good standing, suspension, resignation, disbarment, or a functional equivalent;
 - (2) termination of employment with the eligible legal aid organization ~~qualifying legal services provider~~; or
 - (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;
- (I) submit a new application to register as a Registered Legal Aid Services Attorney before beginning employment with a new eligible legal aid

- organization qualifying legal services provider; and
- (J) otherwise comply with the requirements of Rule 9.45 and these rules.

Rule 3.362 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 3.363 Duties of employer

An employer who meets the requirements of Rule 9.45 for an eligible legal aid organization qualifying legal services provider must

- (A) ~~at all times meet the statutory requirements for a legal services project or be the recipient of a grant from the Legal Services Trust Fund;~~⁸
- (A B) complete the Application for Approval as Eligible Legal Aid Organization Qualifying Legal Services Provider and be approved by the State Bar as an eligible qualifying employer;
- (B C) ~~before employing a Registered Legal Services Attorney, complete a Declaration signed by the supervising attorney of the Eligible Legal Aid Organization Qualifying Legal Services Provider, before employing a Registered Legal Aid Attorney, attesting that it~~
- a. is an eligible legal aid organization qualifying legal services provider;
 - b. agrees to supervise the Registered Legal Aid Services Attorney ("attorney") and otherwise comply with the requirements of Rule 9.45 and these rules;
 - c. deems the attorney, on the basis of reasonable inquiry, to be of good moral character;
 - d. agrees to notify the State Bar of California, in writing, within thirty days if
 - i. the attorney has terminated employment;
 - ii. the attorney is no longer eligible for employment as required by Rule 9.45 and these rules;
 - iii. the supervising attorney no longer meets the requirements of these rules;
 - iv. its status as an eligible legal aid organization qualifying legal services provider has changed; or
 - v. it has changed its office address; and,

⁸ ~~Business & Professions Code §§ 6213 and 6214(b)(3)(B).~~

- (D) ~~comply with State Bar quality control procedures for qualifying legal services providers.~~

Rule 3.363 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 3.364 Suspension of a Registered Legal Aid Services Attorney registration

- (A) Registration as a Legal Aid Services Attorney is suspended

- (1) for failure to annually register as a Registered Legal Aid Services Attorney and submit any related fee and penalty set forth in the Schedule of Charges and Deadlines;
- (2) for failure to comply with the Minimum Continuing Legal Education requirement of Rule of Court 9.45 and to pay any related fee and penalty set forth in the Schedule of Charges and Deadlines;
- (3) upon voluntary transfer to inactive status, or the functional equivalent in any jurisdiction where admitted to practice law
~~disciplinary action that affects the attorney's status of good standing, suspension, resignation, disbarment, or a functional equivalent in status in any jurisdiction where admitted to practice law;~~
- ~~(4) upon imposition of discipline by a professional or occupational licensing authority; or~~
- ~~(4)(5) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a member licensee of the State Bar; or~~
- (5) for failure to meet the eligibility requirements of Rule 9.45(c)(3),(4),(5),(6), and (7).

- (B) An attorney suspended under these rules is not permitted to practice law during the suspension. ~~An attorney suspended for failure to comply with annual registration requirements may be reinstated upon compliance.~~
- (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

Rule 3.364 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 3.365 Termination of Registration

~~(A) Permission to practice law as a Registered~~ Registration as a Legal Aid Services Attorney terminates

~~(A) (1) upon for failure to meet the eligibility requirements of Rule 9.45(c)(1) or Rule 9.45(c)(2); failure to meet the eligibility requirements of Rule 9.45 or these rules;~~

~~(2) as required by Rule 9.45 or these rules; upon imposition of discipline for misconduct by a professional or occupational licensing authority; or~~

~~(B) —~~

~~(C) (3) upon admission to the State Bar;~~

~~(D) (4) upon repeal of Rule 9.45 or termination of the Registered Legal Aid Services Attorney program; or~~

~~(E) (5) upon request.~~

~~(B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as a Legal Aid Attorney in order to practice law in California.~~

~~(C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.~~

~~(D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.~~

Rule 3.365 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 3.366 Reinstatement after termination

An attorney terminated as a Registered Legal Aid Services Attorney who seeks reinstatement must meet all eligibility and application requirements of these rules.

Rule 3.366 adopted effective July 1, 2010; amended effective _____, 2018.

Rule 3.367 Public information

State Bar records for attorneys permitted to practice law as Registered Legal Aid Services Attorneys are public to the same extent as member records of licensed attorneys.

Rule 3.367 amended effective _____, 2018; adopted effective July 1, 2010.

Rule 9.44. Registered foreign legal consultant [9/05/2018 Draft]

(a) Definition

A "registered foreign legal consultant" is a person who:

- (1) .Is admitted to practice and is in good standing as an attorney or counselor-at-law or the equivalent in a foreign country; and
- (2) .Has a currently effective certificate of registration as a registered foreign legal consultant from the State Bar.

(Subd (a) amended effective January 1, 2007.)

(b) State Bar Registered Foreign Legal Consultant Program

The State Bar must establish and administer a program for registering foreign attorneys or counselors-at-law or the equivalent under rules adopted by the Board of Trustees ~~Governors~~ of the State Bar.

(Subd (b) amended effective _____, 2018; previously amended effective January 1, 2007.)

(c) Eligibility for certification

To be eligible to become a registered foreign legal consultant, an applicant must:

- (1) .Present satisfactory proof that the applicant 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 for at least four of the six years immediately preceding the application and, while so admitted, has actually practiced the law of that country;
- (2) .Present satisfactory proof that the applicant possesses the good moral character requisite for a person to be licensed as a licensee member of the State Bar of California and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (3) .Agree to comply with the provisions of the rules adopted by the Board of Trustees ~~Governors~~ of the State Bar relating to security for claims against a foreign legal consultant by his or her clients;
- (4) .Agree to comply with the provisions of the rules adopted by the Board of Trustees ~~Governors~~ of the State Bar relating to maintaining an address of record for State Bar purposes;
- (5) .Agree to notify the State Bar of any change in his or her status in any jurisdiction where he or she is admitted to practice or of any discipline with respect to such admission;
- (6) .Agree to be subject to the jurisdiction of the courts of this state with respect to the laws of the State of California governing the conduct of attorneys, to the same extent as a licensee member of the State Bar of California;
- (7) .Agree to become familiar with and comply with the standards of professional conduct required of licensees ~~members~~ of the State Bar of California;
- (8) .Agree to be subject to the disciplinary jurisdiction of the State Bar of California;
- (9) .Agree to be subject to the rights and obligations with respect to attorney client privilege, work-product privilege, and other professional privileges, to the same extent as attorneys admitted to practice law in California; and

- (10) Agree to comply with the laws of the State of California, the rules and regulations of the State Bar of California, and these rules.

(Subd (c) amended effective _____, 2018; previously amended effective January 1, 2007.)

(d) Authority to practice law

Subject to all applicable rules, regulations, and statutes, a registered foreign legal consultant may render legal services in California, except that he or she may not:

- (1) Appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any court or before any judicial officer;
- (2) Prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States;
- (3) Prepare any will or trust instrument affecting the disposition on death of any property located in the United States and owned by a resident or any instrument relating to the administration of a decedent's estate in the United States;
- (4) Prepare any instrument in respect of the marital relations, rights, or duties of a resident of the United States, or the custody or care of the children of a resident; or
- (5) Otherwise render professional legal advice on the law of the State of California, any other state of the United States, the District of Columbia, the United States, or of any jurisdiction other than the jurisdiction named in satisfying the requirements of (c) of this rule, whether rendered incident to preparation of legal instruments or otherwise.

(Subd (d) amended effective January 1, 2007.)

(e) Failure to comply with program

A registered foreign legal consultant who fails to comply with the requirements of the State Bar Registered Foreign Legal Consultant Program will have her or his certification suspended or revoked under rules adopted by the Board of Trustees Governors of the State Bar.

(Subd (e) amended effective _____, 2018; previously amended effective January 1, 2007.)

(f) Fee and penalty

The State Bar has the authority to set and collect appropriate fees and penalties for this program.

(Subd (f) amended effective January 1, 2007.)

(g) Inherent power of Supreme Court

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

(Subd (g) amended effective January 1, 2007.)

Rule 9.44 amended effective _____, 2018; previously amended and renumbered effective January 1, 2007; adopted as rule 988 effective December 1, 1993.

TITLE 3. PROGRAMS AND SERVICES [Draft 9/05/18]

Adopted July 2007

DIVISION 3. NON-MEMBER LICENSEE ATTORNEYS

Chapter 4. Foreign Legal Consultants

Rule 3.400 Definitions

- (A) A "Registered Foreign Legal Consultant" is a person who meets the eligibility requirements of Rule of Court 9.44 of the California Rules of Court ("Rule 9.44") and is registered by the State Bar as a Foreign Legal Consultant.
- (B) "Registered" means that the State Bar has issued a certificate of registration to a person it deems eligible to practice law as a Foreign Legal Consultant.

Rule 3.400 adopted effective July 1, 2010

Rule 3.401 Application

- (A) To practice law as a Registered Foreign Legal Consultant, a person who meets the eligibility requirements of the Rule 9.44 must
 - (1) submit an Application for Registration¹ as an attorney applicant for admission to the State Bar of California with the required certificate and the fee set forth in the Schedule of Charges and Deadlines;²
 - (2) submit an Application for Registered Foreign Legal Consultant³ with the fee set forth in the Schedule of Charges and Deadlines (the Schedule);
 - (3) meet State Bar requirements for acceptable moral character, which are set forth in the instructions for Application for Registered Foreign Legal Consultant;
 - (4) submit a letter of recommendation from an authorized representative of the professional body having final disciplinary jurisdiction or a judge of the highest law court or court of original jurisdiction attesting to his or her professional qualifications in the foreign jurisdiction.
- (B) An application to practice law as a Registered Foreign Legal Consultant may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

¹ See Rule 4.16(B).

² See Rule 4.3(B).

³ See Rule of Court 9.44.

- (C) Upon a showing of undue hardship by the applicant, the State Bar may waive or vary this rule's requirement of the letter of recommendation attesting to the applicant's professional qualifications.

Rule 3.401 adopted effective July 1, 2010

Rule 3.402 Duties of Registered Foreign Legal Consultants

A Foreign Legal Consultant must

- (A) annually renew registration as a Registered Foreign Legal Consultant and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) report to the State Bar within thirty days any change in eligibility or the security for claims required by these rules;
- (C) at all times maintain the security for claims required by these rules and upon demand promptly provide the State Bar with current evidence of security for claims;
- (D) provide legal advice in California exclusively regarding the law of a foreign jurisdiction where he or she is licensed to practice law and which is identified in the Application To Register as a Foreign Legal Consultant;
- (E) use the title "Registered Foreign Legal Consultant" and no other in connection with activities performed as a Registered Foreign Legal Consultant;
- (F) not claim in any way to be a member licensee of the State Bar of California;
- (G) maintain an address of record and a current e-mail address with the State Bar; and
- (H) otherwise comply with Rule 9.44 and these rules.

Rule 3.402 amended effective _____, 2018; adopted effective July 1, 2010

Rule 3.403 Security for claims

A Registered Foreign Legal Consultant must provide evidence of security for claims for pecuniary losses resulting from acts, errors, or omissions in the rendering of legal services. The security assets must be maintained at all times, and the State Bar may require current evidence of security for claims at any time. The evidence

- (A) may be a certificate of insurance, a letter of credit, a written guarantee, or a written agreement executed by the applicant;
- (B) must be provided in a form acceptable to the State Bar; and
- (C) must be computed in United States dollars.

Rule 3.403 adopted effective July 1, 2010

Rule 3.404 Insurance as security for claims

If insurance serves as security for claims, it must be acceptable to the State Bar and provide the Registered Foreign Legal Consultant a minimum amount of annual insurance and a maximum deductible. These amounts are specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

- (A) If the insurance excludes the cost of defense, the Registered Foreign Legal Consultant may reduce the minimum amount of annual insurance as specified in the Schedule.
- (B) If the insurance provides for a deductible greater than that specified in the Schedule, the Registered Foreign Legal Consultant must provide a letter of credit or a written agreement as evidence of security for the deductible.
- (C) If the insurance is provided by an insurer outside California, the Registered Foreign Legal Consultant must promptly provide, upon request of the State Bar, a copy of the insurance policy and a translation if the policy is not in English.

Rule 3.404 adopted effective July 1, 2010

Rule 3.405 Letter of credit as security for claims

If a letter of credit serves as security for claims, the Registered Foreign Legal Consultant must maintain the letter of credit at all times in the minimum amount specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

Rule 3.405 adopted effective July 1, 2010

Rule 3.406 Written guarantee as security for claims

If a written guarantee serves as security for claims, the Registered Foreign Legal Consultant must maintain the written guarantee at all times for a minimum amount in favor of the State Bar. The amount is specified in the Schedule for a single claim and for all claims.

- (A) The guarantor must be a California law firm or law corporation, an active member, licensee of the State Bar, or a financial institution.
- (B) The written guarantee must be supported by an independent accountant's certified financial statements and subsidiary records evidencing that tangible networth for the most recent fiscal year is equivalent to the minimum amount required for security for claims, exclusive of intangible assets such as good will, licenses, patents, trademarks, trade names, copyrights, and franchises. Net worth may include fifty percent of earned fees that have not been billed and billed fees that have not been collected.

Rule 3.406 amended effective ., 2018; adopted effective July 1, 2010

Rule 3.407 Written agreement as evidence of security for claims

If a Foreign Legal Consultant's written agreement serves as security for claims, the agreement must be for the minimum amount specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

Rule 3.407 adopted effective July 1, 2010

Rule 3.408 Suspension of registration as a Foreign Legal Consultant

- (A) Registration as a Foreign Legal Consultant is suspended
- (1) for failure to annually register as a Foreign Legal Consultant and submit any related fee and penalty by the date set forth in the Schedule of Charges and Deadlines;
 - (2) for failure to otherwise comply with or meet the eligibility requirements of Rule 9.44(c) (3), (4), (5), (6), (7), (8), (9), and (10), these rules or with the laws or standards of professional conduct applicable to a member licensee of the State Bar; or
 - ~~(3) upon imposition of discipline by a professional or occupational licensing authority.~~
- (B) A Foreign Legal Consultant suspended under these rules is not permitted to practice law during the suspension. ~~A Foreign Legal Consultant suspended for failure to comply with annual registration requirements may be reinstated upon compliance.~~
- (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

Rule 3.408 amended effective . 2018; adopted effective July 1, 2010

Rule 3.409 Termination of Registration

~~(A) Permission to practice law as a Register~~ Registration as a ed Foreign Legal Consultant terminates

- ~~(A) upon failure to meet the eligibility requirements of Rule 9.44 or these rules;~~
- (B) ~~as required by Rule 9.44 or these rules;~~

- (C) (1) for failure to meet the eligibility requirements of Rule 9.44(c)(1) or Rule 9.44(c)(2);
- (D) (2) upon imposition of discipline for misconduct by a professional or occupational licensing authority;
- (E) (3) upon admission to the State Bar;
(4) upon repeal of Rule 9.44 or termination of the Foreign Legal Consultants program; or
(5) upon request.

(B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as a Foreign Legal Consultant in order to practice law in California.

(C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

Rule 3.409 amended effective _____, 2018; adopted effective July 1, 2010

Rule 3.410 Reinstatement after termination

An attorney terminated as a Registered Foreign Legal Consultant who seeks reinstatement must meet all eligibility and application requirements of these rules. Reinstatement is effective from the date of compliance.

Rule 3.410 adopted effective July 1, 2010

Rule 3.411 Public information

State Bar records for attorneys permitted to practice law as Foreign Legal Consultants are public to the same extent as member licensee records.

Rule 3.411 amended effective _____, 2018; adopted effective July 1, 2010

Rule 9.41.1. Registered military spouse attorney [9/19/2018 Draft]

(a) Registered Military Spouse Attorney

The following definitions apply in this rule:

(1) Definitions

- (A) "Military Spouse Attorney" means an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency and who is married to, in a civil union with, or a registered domestic partner of, a Service Member.
- (B) "Service Member" means an active duty member of the United States Uniformed Services who has been ordered stationed within California.
- (C) "Active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who:
 - (i) Is a licensee in good standing of the entity governing the practice of law in each jurisdiction in which the attorney is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and;
 - (ii) Remains an active licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law as a registered military spouse attorney in California.

(2) Scope of Practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is permitted to practice law in California, under supervision, in all forms of legal practice that are permissible for a licensed attorney of the State Bar of California, including pro bono legal services.

(3) Requirements

For an attorney to qualify to practice law under this rule, the attorney must:

- (A) Be an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- (B) Be married to, be in a civil union with, or be a registered domestic partner of, a Service Member, except that the attorney may continue to practice as a registered military spouse attorney for one year after the termination of the marriage, civil union, or domestic partnership as provided in (a)(9)(A)(vii);
- (C) Reside in California;
- (D) Meet all of the requirements for admission to the State Bar of California, except that the attorney:
 - (i) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
 - (ii) May practice law while awaiting the result of his or her Application for Determination of Moral Character from the State Bar of California.
- (E) Comply with the rules adopted by the Board of Trustees relating to the State Bar Registered Military Spouse Attorney Program;
- (F) Practice law under the supervision of an attorney who is an active licensee in good standing of the State Bar of California who has been admitted to the practice of law for two years or more;

- (G) Abide by all of the laws and rules that govern licensees of the State Bar of California, including the Minimum Continuing Legal Education ("MCLE") requirements;
- (H) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that licensees of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements for the registered military spouse attorney's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered military spouse attorney's compliance group is required to report in less than thirty-six months, the MCLE requirements will be reduced proportionally; and
- (I) Not have taken and failed the California bar examination within five years immediately preceding initial application to register under this rule.

(4) Application

The attorney must comply with the following registration requirements:

- (A) Register as an attorney applicant, file an Application for Determination of Moral Character with the Committee of Bar Examiners, and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (B) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of a California attorney during the time he or she practices law as a military spouse attorney in California; and
- (C) Submit to the State Bar of California a declaration signed by a qualifying supervising attorney. The declaration must attest:
 - (i) that the applicant will be supervised as specified in this rule; and
 - (ii) that the supervising attorney assumes professional responsibility for any work performed by the registered military spouse attorney under this rule.

(5) Application and Registration Fees

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered military spouse attorney.

(6) State Bar Registered Military Spouse Attorney Program

The State Bar may establish and administer a program for registering registered military spouse attorneys under rules adopted by the Board of Trustees of the State Bar.

(7) Supervision

To meet the requirements of this rule, an attorney supervising a registered military spouse attorney:

- (A) Must have practiced law as a full-time occupation for at least four years in any United States jurisdiction;
- (B) Must have actively practiced law in California for at least two years immediately preceding the time of supervision and be a licensee in good standing of the State Bar of California;
- (C) Must assume professional responsibility for any work that the registered military spouse attorney performs under the supervising attorney's supervision;
- (D) Must assist, counsel, and provide direct supervision of the registered military spouse attorney in the activities authorized by this rule, approve in writing any appearance in court, deposition, arbitration or any proceeding by the registered military spouse attorney, and review such activities with the supervised military spouse attorney, to the extent required for the protection of the client or customer;

- (E) Must read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered military spouse attorney before their filing, and must read and approve any documents prepared by the registered military spouse attorney before their submission to any other party;
- (F) Must agree to assume control of the work of the registered military spouse attorney in the event the registration of the military spouse attorney is terminated, in accordance with applicable laws; and
- (G) May, in his or her absence, designate another attorney meeting the requirements of (A) through (F) to provide the supervision required under this rule.

(8) Duration of Practice

A registered military spouse attorney must renew his or her registration annually and may practice for no more than a total of five years under this rule.

(9) Termination of Military Spouse Attorney Registration

(A) Registration as a registered military spouse attorney is terminated

- (i) upon receipt of a determination by the Committee of Bar Examiners that the registered military spouse attorney is not of good moral character;
- (ii) for failure to annually register as a registered military spouse attorney and submit any related fee set by the State Bar;
- (iii) for failure to comply with the Minimum Continuing Legal Education requirements and to pay any related fee set by the State Bar;
- (iv) if the registered military spouse attorney no longer meets the requirements under (a)(1)(C) of this section
- (v) upon the imposition of any discipline by the State Bar of California or any other professional or occupational licensing authority, including administrative or stayed suspension;
- (vi) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a licensee of the State Bar of California;
- (vii) if the Service Member is no longer an active member of the United States Uniformed Services or is transferred to another state, jurisdiction, territory outside of California, except that if the Service Member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse attorney may continue to practice pursuant to the provisions of this rule until the Service Member is assigned to a location with dependents authorized; or
- (viii) one year after the date of termination of the registered military spouse attorney's marriage, civil union, or registered domestic partnership.

- (B) The supervising attorney of registered military spouse attorney suspended by these rules will assume the work of the registered military spouse attorney in accordance with applicable laws.

(10) Inherent Power of Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

(11) Effect of Rule on Multijurisdictional Practice

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not licensees of the State Bar of California.

Adopted as rule 9.41.1 by the Supreme Court effective , 2018.

TITLE 3. PROGRAMS AND SERVICES [9/19/2018 Draft]

Adopted 2018

DIVISION 3. NON-LICENSEE ATTORNEYS

Chapter 1. Multijurisdictional Practice

Article 1. Registered Military Spouse Attorney

Rule 3.350 Definitions

- (A) A "Registered Military Spouse Attorney" is an attorney who meets the eligibility requirements of Rule 9.41.1 of the California Rules of Court ("Rule 9.41.1") and is registered by the State Bar as a Registered Military Spouse Attorney.
- (B) "Registered" means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as a Registered Military Spouse Attorney.

Rule 3.351 Application

- (A) To apply to register as a Registered Military Spouse Attorney, an attorney who meets the eligibility and employment requirements of Rule 9.41.1 must
 - (1) submit an Application for Registration¹ as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;²
 - (2) submit an Application for Registered Military Spouse Attorney³ with the fee set forth in the Schedule of Charges and Deadlines;
 - (3) meet State Bar requirements for acceptable moral character;
 - (4) submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of a California attorney during the time he or she practices law as a military spouse attorney in California; and

¹ See Rule 4.16(B).

² See Rule 4.3(B).

³ See Rules of Court, rule 9.41.1.

(5) submit a Declaration signed by the supervising attorney⁴.

(B) An application to practice law as a Registered Military Spouse Attorney may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

Rule 3.352 Duties of Registered Military Spouse Attorney

An attorney employed as Registered Military Spouse Attorney must

- (A) annually renew registration as a Registered Military Spouse Attorney and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) practice for no more than a total of five years as a Registered Military Spouse Attorney;
- (C) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.41.1;
- (D) report a change of supervising attorney in accordance with State Bar requirements;
- (E) use the title "Specially Registered Attorney" in connection with activities performed as a Registered Military Spouse Attorney;
- (F) not imply or claim in any way to be a licensed attorney of the State Bar of California;
- (G) maintain with the State Bar an address of record that is the current California office address of the attorney's employer and a current e-mail address;
- (H) report to the State Bar within thirty days:
 - (1) a change in status in any jurisdiction where admitted to practice law, such as transfer to inactive status, disciplinary action that affects the attorney's status of good standing, suspension, resignation, disbarment, or a functional equivalent;
 - (2) termination of supervision by the supervising attorney; or
 - (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;

⁴ See Rules of Court, rule 9.41.1(a)(3)(F)

- (I) be supervised by a qualifying supervising attorney who meets the requirements of Rule 9.41.1.
- (J) submit a new application to register as a Registered Military Spouse Attorney before beginning employment with a new qualifying supervising attorney; and
- (K) otherwise comply with the requirements of Rule 9.41.1 and these rules.

Rule 3.353 Duties of supervising attorney

A qualifying supervising attorney who meets the requirements of Rule 9.41.1 must

- (A) complete the Application for Approval, and be approved by the State Bar, as a qualifying supervising attorney;
- (B) complete and sign a Declaration before supervising a Registered Military Spouse Attorney, attesting that he or she
 - a. is a qualified supervising attorney;
 - b. agrees to supervise Registered Military Spouse Attorney ("attorney") and otherwise comply with the requirements of Rule 9.41.1 and these rules;
 - c. deems the attorney, on the basis of reasonable inquiry, to be of good moral character;
 - d. agrees to notify the State Bar of California, in writing, within thirty days if
 - i. the attorney has terminated employment;
 - ii. the attorney is no longer eligible for employment as required by Rule 9.41.1 and these rules;
 - iii. the supervising attorney no longer meets the requirements of these rules;
 - iv. their status as a qualifying supervising attorney has changed; or
 - v. he/she has changed their office address.

Rule 3.354 Termination of Registration

(A) Registration as a Military Spouse Attorney terminates

- (1) as required by Rule 9.41.1;

(2) upon imposition of discipline for misconduct by a professional or occupational licensing authority;

(3) upon admission to the State Bar of California;

(4) upon repeal of Rule 9.41.1 or termination of the Registered Military Spouse Attorney program; or

(5) upon request.

(B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as a Foreign Legal Consultant in order to practice law in California.

(C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

Rule 3.355 Reinstatement after termination

An attorney terminated as a Registered Military Spouse Attorney who seeks reinstatement must meet all eligibility and application requirements of these rules.

Rule 3.356 Public information

State Bar records for attorneys permitted to practice law as Registered Military Spouse Attorney are public to the same extent as licensed attorney records.

Rules 3.550-3.357 adopted effective , 2018.