

SUPREME COURT OF LOUISIANA

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ORDER
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Acting under the authority of Article V, Sections 1 and 5 of the Louisiana Constitution of 1974, the inherent power of this Court, and considering the recommendations of the Louisiana State Bar Association relative to amendments to Rules 5.5 and 8.5 of the Louisiana Rules of Professional Conduct,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT

Part 1. Rule 5.5 of the Louisiana Rules of Professional Conduct be and is hereby amended to read as follows:

Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law

- (a) A lawyer shall not practice law in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

- (b) A lawyer who is not admitted to practice in this jurisdiction shall not:
 - (1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law;
or
 - (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

- (c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

- (1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;
 - (2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;
 - (3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires *pro hac vice* admission; or
 - (4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.
- (d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:
- (1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires *pro hac vice* admission and that are provided by an attorney who has received a limited license to practice law pursuant to La. S. Ct. Rule XVII, §14; or
 - (2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

(e)(1) A lawyer shall not:

- (i) employ, contract with as a consultant, engage as an independent contractor, or otherwise join in any other capacity, in connection with the practice of law, any person the attorney knows or reasonably should know is a disbarred attorney, during the period of disbarment, or any person the attorney knows or reasonably should know is an attorney who has permanently resigned from the practice of law in lieu of discipline; or
- (ii) employ, contract with as a consultant, engage as an independent contractor, or otherwise join in any other capacity, in connection with the practice of law, any person the attorney knows or reasonably should know is a suspended attorney, during the period of suspension, unless first preceded by the submission of a fully executed employment registration statement to the Office of Disciplinary Counsel, on a registration form provided by the Louisiana Attorney Disciplinary Board, and approved by the Louisiana Supreme Court.

(e)(2) The registration form provided for in Section (e)(1) shall include:

- i) the identity and bar roll number of the suspended attorney sought to be hired;
- ii) the identity and bar roll number of the attorney having direct supervisory responsibility over the suspended attorney throughout the duration of employment or association;
- iii) a list of all duties and activities to be assigned to the suspended attorney during the period of employment or association;

- iv) the terms of employment of the suspended attorney, including method of compensation;
- v) a statement by the employing attorney that includes a consent to random compliance audits, to be conducted by the Office of Disciplinary Counsel, at any time during the employment or association of the suspended attorney; and
- vi) a statement by the employing attorney certifying that the order giving rise to the suspension of the proposed employee has been provided for review and consideration in advance of employment by the suspended attorney.

(e)(3) For purposes of this Rule, the practice of law shall include the following activities:

- i) holding oneself out as an attorney or lawyer authorized to practice law;
- ii) rendering legal consultation or advice to a client;
- iii) appearing on behalf of a client in any hearing or proceeding, or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, hearing officer, or governmental body operating in an adjudicative capacity, including submission of pleadings, except as may otherwise be permitted by law;
- iv) appearing as a representative of the client at a deposition or other discovery matter;
- v) negotiating or transacting any matter for or on behalf of a client with third parties;

vi) otherwise engaging in activities defined by law or Supreme Court decision as constituting the practice of law.

(e)(4) In addition, a suspended lawyer shall not receive, disburse or otherwise handle client funds.

(e)(5) Upon termination of the suspended attorney, the employing attorney having direct supervisory authority shall promptly serve upon the Office of Disciplinary Counsel written notice of the termination.

Part 2. Rule 8.5 of the Louisiana Rules of Professional Conduct be and is hereby amended to read as follows:

Rule 8.5. Disciplinary Authority; Choice of Law

(a) **Disciplinary Authority.** A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

(b) **Choice of Law.** In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different

jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

Part 3. These rule changes shall become effective on April 1, 2005, and shall remain in full force and effect thereafter until amended through future orders of this Court.

New Orleans, Louisiana, this _____ day of _____, 2005.

FOR THE COURT:

Pascal F. Calogero, Jr., Chief Justice