

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER ADOPTING SUPREME §
COURT RULE 55.3: Limited §
Permission to Practice for Certain §
Assistant United States Attorneys §
§
§

Before STEELE, Chief Justice, HOLLAND, BERGER, JACOBS and RIDGELY,
Justices, constituting the Court *en Banc*.

ORDER

This 23rd day of October 2012, it appears to the Court that it is desirable to
adopt the following rule which shall be effective immediately:

**Rule 55.3. Limited permission to practice for certain Assistant United States
Attorneys**

- (a) Limited permission to practice. A lawyer admitted to the practice of law in a jurisdiction other than this state, of the United States, who is employed by the United States Attorney's Office for the District of Delaware may apply for a Delaware Certificate of Limited Practice Pursuant to Rule 55.3, which will allow the lawyer to practice law in the courts and administrative tribunals of this State for the purpose of aiding the Attorney General of the State of Delaware in matters enforcing the laws of the state.
- (b) An applicant for a Delaware Certificate of Limited Practice Pursuant to Rule 55.3 shall:

- (1) File under oath the Supreme Court's form application for a Delaware Certificate of Limited Practice Pursuant to Rule 55.3.
 - (2) Furnish a certificate signed by the licensing authority in each jurisdiction in which the applicant is admitted to practice law, stating that the applicant is licensed to practice and is an active member in good standing at the bar of at least one of those jurisdictions.
 - (3) File an affidavit on a form furnished by the Supreme Court, from the United States Attorney for the District of Delaware who attests:
 - (A) That the applicant is employed as a lawyer by the United States Department of Justice as an Assistant United States Attorney in the District of Delaware and certifies that the applicant is and will remain an active member in good standing of another state bar during the entire course of his or her employment pursuant to Rule 55.3;
 - (B) That the nature of the applicant's employment conforms to the requirements of this Rule; and
 - (4) Certify that the applicant has read and is familiar with the Delaware Lawyers' Rules of Professional Conduct.
 - (5) Pay an application fee in the amount of \$100 dollars.
- (c) Upon finding that the applicant has complied with the requirements of section (b) above, the Supreme Court shall notify the applicant that he or she is eligible to be issued a Delaware Certificate of Limited Practice Pursuant to Rule 55.3.
- (d) Application and oath. Application for permission to practice before the courts and administrative tribunals of this State under paragraph (a) of this Rule shall be made in open court at any session of the Court or in the

chambers of any Justice of the Court. Each applicant shall, on being granted such permission, take and subscribe the following oath or affirmation:

“I....., do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Delaware and that I shall conduct myself strictly in accordance with all the terms and conditions of the Rules of the Delaware Supreme Court, in particular Rule 55.3; that I will behave myself in connection with my Delaware Certificate of Limited Practice Pursuant to Rule 55.3 and acting under Rule 55.3 according to the best of my learning and ability and with all good fidelity as well to the Court as to the client; that I will use no falsehood nor delay any person’s cause through lucre or malice.”

After the applicant has taken and subscribed to the foregoing oath or affirmation, the applicant shall be issued a certificate entitling the applicant to practice law in the state as provided in this Rule.

- (e) The privileges and responsibilities of practice by an Assistant United States Attorney for the District of Delaware operating under a valid certificate in this state shall include all privileges and responsibilities otherwise applicable to other Members of the Delaware Bar. Accordingly, lawyers registered under this Rule shall be deemed to be practicing law in Delaware limited to the provisions of Rule 55.3 and are thus subject to:
 - (1) All rules governing the practice of law in Delaware. Jurisdiction of the Supreme Court shall continue whether or not the lawyer retains the Delaware Certificate of Limited Practice Pursuant to Rule 55.3 and irrespective of the lawyer’s continued presence in the state; and
 - (2) The requirements of the other state or states in which the Assistant United States Attorney is admitted to practice law.
- (f) Each person issued a Delaware Certificate of Limited Practice Pursuant to Rule 55.3 shall promptly report to the Supreme Court any change in employment, any change in bar membership status in any jurisdiction of the United States where the applicant has been admitted to the practice of law,

or the imposition of any disciplinary sanction in such jurisdiction by any federal court, state court, or agency before which the applicant has been admitted to practice.

- (g) If there is a change in circumstances and a lawyer admitted pursuant to this Rule becomes ineligible for limited practice, in accordance with its provisions, both the lawyer and the United States Attorney shall immediately provide written notification to the Clerk of the Delaware Supreme Court of that change in circumstance.
- (h) The applicant's authority to practice law as granted under this Rule shall be automatically suspended when:
 - (1) employment by the United States Department of Justice, and its representative, the United States Attorney for the District of Delaware who furnishes the affidavit required by this Rule, is terminated;
 - (2) the lawyer fails to comply with any provision of this Rule; or
 - (3) when the lawyer is suspended or disbarred for disciplinary reasons in any jurisdiction of the United States or by any federal court or agency or by any foreign nation before which the lawyer has been admitted to practice.
- (i) The Supreme Court may adopt such additional regulations as needed to implement the requirements of this Rule.

BY THE COURT:

Chief Justice

Form 1. Application.

IN THE SUPREME COURT OF THE STATE OF DELAWARE

APPLICATION FOR A CERTIFICATE OF LIMITED PRACTICE PURSUANT TO RULE 55.3

I, [Full Name] do hereby apply to the Supreme Court of the State of Delaware for a Certificate of Limited Practice Pursuant to Supreme Court Rule 55.3.

I certify that I am employed exclusively as an Assistant United States Attorney for the District of Delaware.

I certify that I am a member in good standing of the following bars: [List all bar memberships and membership identification numbers, if any], and that I am an active member in good standing of the Bar of the State/Country of [List State/Country/Jurisdiction].

I certify that I have read, and am familiar with, the Delaware Lawyers' Rules of Professional Conduct.

Dated: _____

APPLICANT SIGNATURE

ADDRESS

CITY/STATE/ZIP

PHONE/EMAIL

Sworn to and subscribed

Before me this _____

Day of _____, 20_____

Notary Public

Form 2. Certification of Membership By State Bar Licensing Authority.

[This is a suggested format. Anything comparable will be accepted.]

PRINTED LETTERHEAD STATE BAR LICENSING AUTHORITY

To Whom It May Concern:

[Full Name of Applicant] is an active/inactive member in good standing of the [Bar/Law Society] of the [State/Commonwealth/Territory/Jurisdiction/Country] of [Name of Jurisdiction]. His year of admission was []. His/Her Bar Identification Number is [].

Very truly yours,

[*Signature*]

[Printed Name and Address of Clerk or Licensing Authority Recorder]

Form 3. Report of Change of Status.

IN THE SUPREME COURT OF THE STATE OF DELAWARE

REPORT OF CHANGE OF STATUS UNDER RULE 55.3

Registrant holding a Delaware Certificate of Limited Practice Pursuant to Rule 55.3 hereby gives notice to the Court that

[His/Her employment with the United States Department of Justice, United States Attorney's Office for the District of Delaware, whose address is _____ and whose telephone number is _____, has ended effective as of [Date].]

[His/Her active membership in the Bar of [Jurisdiction] has changed to inactive/emeritus/senior status effective as of [Date].]

[He/She is the subject of disciplinary measures imposed by the Bar of [Jurisdiction] effective as of [Date]. The nature of these disciplinary measures is as follows: [Describe the matter and the sanction imposed].]

Registrant is aware and acknowledges that his/her Certificate of Limited Practice Pursuant to Rule 55.3 granted by this Court on [Date] is hereby revoked and ended as of the date hereinabove written.

Dated: _____

Signature of REGISTRANT

Printed Name of Registrant

[Address]

[Telephone Number]

[Electronic Mail Address]

Form 4. Employer Affidavit.

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RULE 55.3
EMPLOYER AFFIDAVIT – RULE 55.3

STATE OF _____:
COUNTY OF: _____:

BE IT REMEMBERED, that on this _____ day of _____, AD., 20____,
personally appeared before me, [FULL NAME OF U.S. ATTORNEY FOR THE DISTRICT OF
DELAWARE], who being duly sworn according to law, did depose and say:

1. I am the United States Attorney for the District of Delaware.
2. I certify that [NAME OF APPLICANT], hereinafter Applicant, is employed as a lawyer by the United States Department of Justice as an Assistant United States Attorney for the District of Delaware and that the nature of the Applicant's employment conforms to the requirements of Rule 55.3.
3. I certify that Applicant works exclusively for the United States Department of Justice.
4. I certify that Applicant will remain an active member in good standing of the [BAR/LAW SOCIETY] of the [STATE/COMMONWEALTH/JURISDICTION] of [NAME] during the entire course of his/her employment in the context of Rule 55.3.
5. I certify that I, or my successors, will notify the Supreme Court immediately if Applicant's employment is terminated, or if any conditions required by Rule 55.3 change.

Signature of United States Attorney for the District of Delaware

Printed name of U.S. Attorney

Sworn to and subscribed
before me this ____ day
of _____, 20____

Notary Public

Form 5. Employer Report of Change of Status.

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EMPLOYER REPORT OF CHANGE OF REGISTRANT STATUS
UNDER RULE 55.3

Employer of Registrant holding a Delaware Certificate of Limited Practice Pursuant to Rule 55.3 hereby gives notice to the Court that:

[the employment of [REGISTRANT'S NAME] has ended effective as of [Date].]

[the active membership of [REGISTRANT'S NAME] in the Bar of [Jurisdiction] has changed to inactive/emeritus/senior status effective as of [Date]]

[it has been advised that [REGISTRANT'S NAME] is the subject of disciplinary measures imposed by the Bar of [Jurisdiction] effective as of [Date].]

Signature of United States Attorney for the District of Delaware

Printed Name of United States Attorney for the District of Delaware

Dated: _____