

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE ADVISORY COMMITTEE TO §
EXAMINE RULE 5.5 OF THE § Misc. No. 45, 2024
DELAWARE LAWYERS' RULES OF §
PROFESSIONAL CONDUCT AND §
RULE 55.1 OF THE DELAWARE §
SUPREME COURT RULES §

ORDER

On this 4th day of November 2024, it appears to the Court that:

WHEREAS, in 2003, the Court amended Rule 5.5 of the Delaware Lawyers' Rules of Professional Conduct ("DLRPC"), which governs the unauthorized practice of law, to adopt standards for multijurisdictional practice as set forth in Rule 5.5 of the Model Rules of Professional Conduct;

WHEREAS, in 2005, the Court adopted Supreme Court Rule 55.1, which sets forth the process for a non-Delaware lawyer to register as Delaware in-house counsel and receive a Certificate of Limited Practice;

WHEREAS, remote work has increased dramatically in the business world and legal field since the onset of the COVID-19 pandemic in 2020;

WHEREAS, there is no renewal process for Certificates of Limited Practice and it appears that some Rule 55.1 attorneys do not inform the Court of changes in their employment or other circumstances rendering them ineligible for limited practice as required by Rule 55.1;

WHEREAS, in 2024, the Court has issued several orders addressing the requirements of Rule 55.1;¹ and

¹ *In re Polk*, 2024 WL 4590033 (Del. Oct. 22, 2024) (affirming denial of application for Certificate of Limited Practice that did not satisfy the requirements of Rule 55.1 and rejecting arguments that Rule 55.1 violates the Privileges and Immunities Clause and is unconstitutionally vague); *In re Hobi*, 2024 WL 3169114 (Del. June 25, 2024) (terminating Certificate of Limited Practice of respondent who did not satisfy the requirements of Rule 55.1); *In re Senerchia*, 2024 WL 3161007 (Del. June 25, 2024) (accepting voluntary surrender of Certificate of Limited Practice by respondent who did not satisfy the requirements of Rule 55.1).

WHEREAS, in the most recent decision of *Polk*, the Court stated that it would refer DLRPC 5.5 and Supreme Court Rule 55.1 to an advisory committee for consideration of whether amendments to those rules are advisable.

NOW, THEREFORE, IT IS ORDERED that:

- (1) An Advisory Committee is established to examine DLRPC 5.5 and Supreme Court Rule 55.1 and consider whether the possible amendments identified in *Polk* and any other amendments to those rules are advisable.
- (2) Anne C. Foster, Esquire, shall chair the Committee. The members of the Committee shall be Chief Justice Collins J. Seitz, Jr., Mary Akhimien, Esquire, Richard Forsten, Esquire, Luke Mette, Esquire, Ian McConnel, Esquire, Stephen Rahaim, Esquire, and Disciplinary Counsel Jessica Tyler. The Committee will be supported by Supreme Court staff attorneys Christine DiGuglielmo, Esquire and Katherine J. Neikirk, Esquire.
- (3) Any recommendations by the Committee shall be made in the name of the Committee only, and not of the individual members or the institutions by which they are employed. The non-judicial members of this Committee shall be immune from civil suit for any conduct in the discharge of their work for this Committee.
- (4) The Committee shall propose recommended amendments to the Supreme Court on or before February 3, 2025, or such later date as approved by the Supreme Court.
- (5) Rule 55.1 applications submitted on or after the date of this Order shall be held in abeyance until the Court acts on the Committee's recommendations. The 90-day time period under Rule 55.1(k) is tolled until February 3, 2025.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice