

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 05-9087

AMENDMENTS TO RULE XIV OF THE RULES GOVERNING ADMISSION TO THE BAR

ORDERED that:

1. Rule XIV of the *Rules Governing Admission to the Bar* is amended as follows.
2. These amendments, with any changes made after public comments are received, take effect December 1, 2005.
3. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each member of the Legislature; and
 - d. submit a copy of the Order for publication in the *Texas Register*.

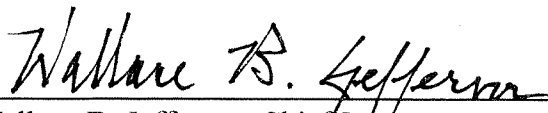
4. These amendments may be changed in response to comments received before November 15, 2005. Any interested party may submit comments in writing as follows:

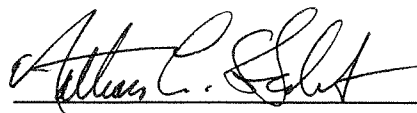
by mail to: Ms. Lisa Hobbs, Rules Attorney
The Supreme Court of Texas
P.O. Box 12248
Austin TX 78711

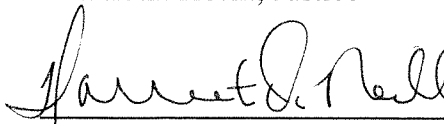
by fax to: 512-463-1365
Attn: Ms. Lisa Hobbs, Rules Attorney

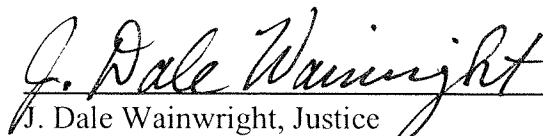
by email to: Lisa.Hobbs@courts.state.tx.us

SIGNED AND ENTERED, this 29th day of July, 2005.


Wallace B. Jefferson, Chief Justice

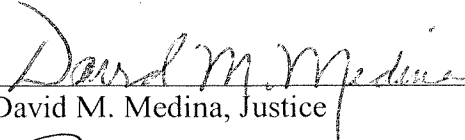

Nathan L. Hecht, Justice


Harriet O'Neill, Justice

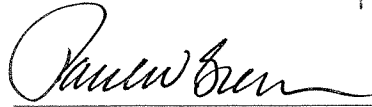

J. Dale Wainwright, Justice



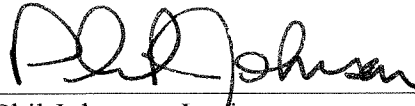
Scott Brister, Justice



David M. Medina, Justice



Paul W. Green, Justice



Phil Johnson, Justice

RULES GOVERNING ADMISSION TO THE BAR

Rule XIV. Foreign Legal Consultants

§ 1 General Requirement as to Certification

~~(a)~~ In its discretion, the Supreme Court may certify to practice in Texas as a legal consultant (a "Foreign Legal Consultant"), without examination, an Applicant ~~A Foreign Legal Consultant is a person who:~~

~~(a) has been, and is currently, admitted to practice law~~ is a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority and while so admitted;

~~(b) for at least three of the five years immediately preceding his or her Application has been a member in good standing of such legal profession and has actively and substantially been engaged in the lawful practice of law of the said foreign country in that country or elsewhere;~~

~~(2) (c) possesses the good moral character and general fitness requisite for admission to the Bar of Texas~~ a member of the Texas Bar;

~~(3) is an actual resident of Texas;~~

~~(d) is over at least twenty-six (26) years of age; and~~

~~(5) possesses the requisite documentation evidencing compliance with the immigration laws of the United States; and~~

~~(6) has been issued a Certificate of Registration as Foreign Legal Consultant, which certificate is in current status;~~

~~(e) intends to practice as a Foreign Legal Consultant in Texas and to maintain an office in Texas for that purpose.~~

§ 2 Proof Required

~~(b)~~ An Applicant under this Rule for a Certificate of Registration as a Foreign Legal Consultant shall file an Application with the Board, on a forms furnished designated by the Board, accompanied by the requisite fee. Such an Application signed by both the Applicant and a sponsoring member of the Texas Bar who is in good standing and has been a member of the Bar of Texas for at least five (5) years, and shall include, including but not be limited to:

~~(a) a certificate from the professional body or public authority in such foreign country having final jurisdiction over professional admission and discipline, certifying as to the Applicant's admission to practice and the date thereof, and as to his or her good standing as such attorney or counselor at law or the equivalent, together with a duly authenticated English translation of such certificate if it is not in English;~~

~~(b) a letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or intermediate appellate court of original jurisdiction of such foreign country, together with a duly authenticated English translation of such letter if it is not in English;~~

~~(c) a duly authenticated English translation of such certificate and such letter if, in either case, it is not in English;~~

~~(d) documentation in duly authenticated form evidencing that the Applicant is lawfully entitled to reside and be employed in the United States of America pursuant to the immigration laws thereof; and~~

~~(3)(e) such other evidence as to the Applicant's educational and professional qualifications, required practice, and good moral character and fitness, and compliance with the requirements of Section 1 of this Rule as the Board may require.~~

~~(5) a duly acknowledged instrument in writing setting forth the Applicant's address of actual residence in the State of Texas and designating an agent for service in Texas upon whom process may be served, with like effect as if served personally upon the Applicant, in any action or proceeding thereafter brought against the Applicant and arising out of or based upon any legal services rendered or offered to be rendered by the Applicant within or to residents of the State of Texas whenever, after due diligence, service cannot be made upon the Applicant at such address or at such new address as filed by a supplemental instrument;~~

~~(6) in such amount as the Board may prescribe, evidence of professional liability insurance or such other proof of financial responsibility as the Board may require, to assure the Applicant's proper professional conduct and responsibility; and~~

~~(7) a duly acknowledged statement affirming that the Board will be immediately advised of any law suit brought against the Applicant which arises out of or is based upon any legal services rendered or offered to be rendered by the Applicant within Texas.~~

~~(c) The Board shall investigate the qualifications, moral character, and fitness of any Applicant for a certificate, and may require the Applicant to submit any additional proof or information which the Board deems appropriate.~~

~~(1) The Applicant shall disclose all past charges of professional misconduct and shall show that the Applicant has never been disbarred or had his or her license suspended and that there are no charges of misconduct pending against Applicant, and so far as the Applicant knows none are being threatened.~~

~~(2) Upon a showing that strict compliance with the provisions of (b)(1) or (2) of this Rule is impossible or very difficult for reasons beyond the control of the Applicant, the Board may in its discretion, waive or vary the Application of such provisions and permit the Applicant to submit other evidence.~~

~~(3) Upon completion of the Board's review of the information submitted by the Applicant and its investigation of the Applicant's qualifications, moral character and fitness, if the Board determines that the Applicant possesses all the qualifications set forth has satisfied the requirements of in~~

~~paragraph (a) Sections 1 and 2 of this Rule, the Board shall recommend to the Court the issuance of a Certificate of Registration certification of the Applicant to practice in Texas as a Foreign Legal Consultant.~~

~~The Certificate of Registration certification to practice in Texas as a Foreign Legal Consultant shall be is valid for one year, unless revoked for good cause shown, and may be renewed is renewable upon the filing with the Board of an annual request, which shall be accompanied by~~

- ~~(a) payment of the annual renewal fee and,~~
- ~~(b) evidence satisfactory to the Board reflecting the completion of three hours of Texas Mandatory Continuing Legal Education approved ethics programs, and~~
- ~~(c) such evidence as the Board shall deem necessary that all the requirements for the issuance of an original Certificate original certification continue to be met.~~

§ 3 Scope of Practice

~~(e) Certified Foreign Legal Consultants shall be subject to control by the Supreme Court of Texas and to censure, suspension, removal or revocation of the Certificate of Registration in accordance with the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct applicable to members of the State Bar of Texas:~~

~~(f) Each Applicant, prior to the issuance of the Certificate of Registration, shall execute and file with the Supreme Court of Texas an oath in the form prescribed attesting that the Foreign Legal Consultant will abide by the rules and regulations applicable to such Certified Foreign Legal Consultant:~~

~~(g) A person certified to practice as A a Foreign Legal Consultant under this Rule may render legal services in Texas and give professional legal advice only on the law of the foreign country where the legal consultant in the manner and to the extent permitted by the jurisdiction in which such person is admitted to practice, subject, however, to the limitations that such person he or she shall not:~~

~~(1)(a) appear for a person other than himself or herself as attorney in any Court court, or before any magistrate or other judicial officer, in Texas or before any administrative agency in Texas or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any such Court, before any such magistrate or other judicial officer, or before any such administrative agency; or~~

~~(2)(b) prepare any deed, mortgage, assignment, discharge, lease, trust instrument, or any other instrument affecting effecting the transfer or registration of title to real estate located in the United States of America; or~~

~~(3)(c) prepare:~~

~~(A)(i) any will or trust instrument affecting effecting the disposition on death of any property located in the United States of America and owned by a resident thereof; or~~

~~(B)(ii) any instrument relating to the administration of a decedent's estate in the United States of America; or~~

~~(4)~~(d) prepare any instrument in respect to of the marital or parental relations, rights or duties of a resident of the United States of America or the custody or care of the children of such a resident; or

~~(5)~~(e) otherwise render professional legal services or advice on the law of the State of Texas or of the United States of America or of any other jurisdiction (domestic or foreign) in which such person is not authorized to practice law—(whether rendered incident to the preparation of legal instruments or otherwise) except on the basis of advice from a person duly qualified and entitled (otherwise than by virtue of having been certified under this Rule) to render professional legal advice in Texas on such law and with whom the Foreign Legal Consultant

(i) is co-counsel with a Texas lawyer that has been identified to the client, or

(ii) has an identified affiliation, employment, partnership, shareholder or other membership relationship in or with

(A) the same law firm,

(B) a company partnership, or other entity, or

(C) a governmental agency or unit; or

~~(6)~~(f) in any way hold himself or herself out as an attorney licensed in a member of the Bar of Texas, as a member of the State Bar of Texas, or as an attorney licensed in any United States jurisdiction, unless actually so licensed; or

~~(7)~~(g) carry on his or her practice under, or utilize in connection with such practice, ~~use~~ any name, title or designation other than one or more of the following:

(i) his or her own name;

(ii) the name of the law firm with which ~~(s)he~~ he or she is affiliated; and

(iii) ~~or~~ his or her authorized title ~~and/or firm name~~ in the foreign country of his or her admission to practice, in each case which may be used in conjunction with the name of such foreign country; and

(iv) the title “Foreign Legal Consultant,” which may be used in conjunction with the words “admitted to the practice of law in [name of the foreign country of his or her admission to practice]”.

§ 4 Rights and Obligations

~~(f)~~Subject to the limitations set forth in Section 3 of this Rule, a person certified as a Foreign Legal Consultant under this Rule shall be considered a lawyer affiliated with the Bar of Texas and shall be entitled and subject to:

(a) the rights and obligations set forth in the State Bar Act and the State Bar Rules or arising from the other conditions and requirements that apply to a member of the Bar of Texas under the Texas Disciplinary Rules of Professional Conduct; and

(b) the rights and obligations of a member of the Bar of Texas with respect to:

(i) affiliation in the same law firm with one or more members of the Bar of Texas, including by:

(A) employing one or more members of the Bar of Texas;
(B) being employed by one or more members of the Bar of Texas or by any partnership or professional corporation which includes members of the Bar of Texas or which maintains an office in Texas; and
(C) being a partner in any partnership or shareholder in any professional corporation which includes members of the Bar of Texas or which maintains an office in Texas; and
(ii) attorney-client privilege, work-product privilege and similar professional privileges.

A person certified as a Foreign Legal Consultant under this Rule shall not be considered or deemed to be a “nonlawyer” as that term is used in either §5.03 or 5.04 of the Texas Disciplinary Rules of Professional Conduct.

§ 5 Disciplinary Provisions

A person certified to practice as a Foreign Legal Consultant under this Rule shall be subject to professional discipline in the same manner and to the same extent as persons admitted to the Texas Bar and to this end:

(a) Every person certified to practice as a Foreign Legal Consultant under this Rule:
(i) shall be subject to control by the Board and to censure, suspension, removal or revocation of his or her certification to practice by the Supreme Court and shall otherwise be governed by Texas Disciplinary Rules of Professional Conduct; and
(ii) shall execute and file with the Court, in such form and manner as the Board may prescribe:

(A) his or her commitment to observe the State Bar Act, the State Bar Rules and the Texas Disciplinary Rules of Professional Conduct to the extent applicable to the legal services authorized under Section 3 of this Rule;

(B) a written undertaking to notify the Board of any change in such person’s good standing as a member of the foreign legal profession referred to in Section 1(a) of this Rule and of any final action of the professional body or public authority referred to in Section 2(a) of this Rule imposing any disciplinary censure, suspension, or other sanction upon such person; and

(C) a duly acknowledged instrument, in writing, setting forth his or her address in Texas and designating the Executive Director of the Board as his or her agent upon whom process may be served, with like effect as if served personally upon him or her, in any action or proceeding thereafter brought against him or her and arising out of or based upon any legal services rendered or offered to be rendered by him or her within or to residents of Texas, whenever after due diligence service cannot be made upon him or her at such address or at such new address in Texas as he or she shall have filed with the Board by means of a duly acknowledged supplemental instrument in writing.

(b) Service of process on the Executive Director of the Board, pursuant to the designation filed as aforesaid, shall be made by personally delivering to and leaving with the Executive Director of the Board, or with a deputy or assistant authorized to receive such service, at the office of the Board, duplicate copies of such process together with a fee of \$10. Service of process shall be complete when the Executive Director of the Board has been so served. The Board shall promptly send one of such copies to the Foreign Legal Consultant to whom the process is directed, by certified mail, return receipt requested, addressed to such Foreign Legal Consultant at the address specified by him or her as aforesaid.

§ 6 Application and Renewal Fees

An Applicant for certification as a Foreign Legal Consultant under this Rule shall pay the Foreign Legal Consultant fee in the amount specified in Rule XVIII(a) of these Rules. A person certified as a Foreign Legal Consultant shall pay annual renewal fees in the amount specified in Rule XVIII(a) of these Rules.

§ 7 Revocation of Certification

If the Board determines that a person certified as a Foreign Legal Consultant under this Rule no longer meets the requirements for certification set forth in Sections 1(a) or 1(c) of this Rule, it shall recommend to the Court that the certification granted to such person hereunder be revoked.

§ 8 Admission to Bar

If a person certified as a Foreign Legal Consultant under this Rule is subsequently admitted to the Texas Bar under other provisions of these Rules, the certification granted to such person hereunder shall be deemed superseded by the license granted to such person to practice law as a person admitted to the Texas Bar.

§ 9 Application for Waiver of Provisions

The Board, upon application, may in its discretion waive any provision of this Rule in accordance with the provisions of Rule XX(e) of these Rules.