

1:13-2. Proceedings by Indigents

(a) Waiver of Fees. Except when otherwise specifically provided by these rules, whenever any person by reason of poverty seeks relief from the payment of any fees provided for by law which are payable to any court or clerk of court including the office of the surrogate or any public officer of this State, any court upon the verified application of such person, which application may be filed without fee, may in its discretion order the payment of such fees waived. In any case in which a person is represented by a legal [aid society, a Legal Services project] services or public interest organization or law school clinical or pro bono program approved under R. 1:21-11(b)(2), private counsel representing indigents in cooperation with any of the preceding entities, the Office of the Public Defender, or counsel assigned in accordance with these rules, all such fees and any charges of public officers of this State for service of process shall be waived without the necessity of a court order.

(b) . . . no change

Note: Source - R.R. 1:27E, 4:98-2(c). Paragraph (a) amended and paragraph (b) adopted July 7, 1971 to be effective September 13, 1971; paragraph (a) amended July 29, 1977 to be effective September 6, 1977; amended May 3, 1982 to be effective immediately; paragraph (a) amended July 22, 1983 to be effective September 12, 1983; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 22, 2014 to be effective January 1, 2015.

1:21-3. Appearance by Law Graduates and Students; Special Permission for Out-of-State Attorneys

(a) Appearance Prior to Passing Bar Examination. A graduate of a law school approved by the American Bar Association [who has successfully completed an approved skills and methods course] may, before passing the bar examination, appear in any court for the purpose of answering the calendar call in an action in which the attorney or firm employing the graduate is the attorney of record.

(b) Appearance by Law Students and Graduates. A third year law student at, or graduate of, a law school approved by the American Bar Association may appear before a trial court or agency in [accordance] conjunction with a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3), [program approved by the Supreme Court on submission by such law school, a legal aid society, legal services project] or an agency of municipal, county or state government certified under 1:21-11(b)(3). [A program once approved, need not be resubmitted to the Supreme Court provided that reports are filed listing the participants and the nature of their assignments, as required by the Administrative Office of the Courts. Participation in a program] Permission to appear pursuant to this paragraph by a law graduate who has not passed the New Jersey bar examination shall terminate upon the graduate's failure to pass the bar examination for the third time, or after two years of employment following graduation, whichever is sooner.

(c) Permission for Out-of-State Attorneys to Practice in This State. A graduate of an approved law school who is a member of the bar of another state or of the District of Columbia and is employed by, associated with, or serving as a volunteer pro bono attorney with [an organization described in R. 1:21-1(e) and approved by the Supreme Court] a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-

11(b)(1) or (b)(3), shall be permitted to practice, under the supervision of a member of the bar of the State, before all courts of this State in all causes [in which the attorney is associated or serving pro bono with] on behalf of such entities, [legal services program,] subject to the following conditions:

(1) Permission for an out-of-state attorney to practice under this rule shall become effective on filing with the Clerk of the Supreme Court evidence of graduation from an approved law school, a certificate of any court of last resort certifying that the out-of-state attorney is a member in good standing of the bar of another state or of the District of Columbia, and [, (a) in the case of attorneys employed by or associated with, an approved R. 1:21-1(e) organization,] a statement [signed by the President, Legal Services of New Jersey,] that the out-of-state attorney is currently employed by, [or] associated with, [such organization; or (b) in the case of a pro bono attorney with an approved R. 1:21-1(e) organization, on the filing of a statement by the executive director of that organization certifying that the attorney is] or serving on a voluntary pro bono basis with [the] a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3), which statement shall be signed by the entity's lead attorney who practices law in New Jersey;

(2) Permission to practice under this rule shall [cease whenever] apply only in matters in which the out-of-state attorney [ceases to be] is employed by, associated with, or serving as a volunteer pro bono attorney with a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3); [an approved R. 1:21-1(e) organization in this State;]

[(3) Notice of said cessation shall be filed with the Clerk of the Supreme Court by the President, Legal Services of New Jersey, within five days after being notified of the cessation of

the out-of-state attorney's employment or association; or by the executive director of the organization, in the case of a volunteer pro bono attorney;]

~~[(4)~~ Permission to practice in this State under this rule shall remain in effect no longer than 2 1/2 years, except that there is no time limit on volunteer pro bono service with an approved R. 1:21-1(e) organization;]

~~(3)~~ ~~[(5)]~~ Permission to practice [in this State] under this rule may be revoked or suspended by the Supreme Court, in its discretion, at any time either by written notice to the out-of-state attorney or by amendment or deletion of this rule; and

~~(4)~~ ~~[(6)]~~ Out-of-state attorneys permitted to practice under this rule are not, and shall not represent themselves to be, members of the bar of this State.

Note: Source-R.R. 1:12-8A(a)(b)(c). Caption amended and paragraph (d) adopted July 1, 1970 effective immediately; paragraph (c) amended July 7, 1971 to be effective September 13, 1971; paragraph (a) amended April 2, 1973 to be effective immediately; paragraph (c) amended July 17, 1975 to be effective September 8, 1975; caption and paragraph (a) amended July 29, 1977 to be effective September 6, 1977; paragraph (c) amended July 16, 1979 to be effective September 10, 1979; paragraph (c) amended October 9, 1979 to be effective immediately but amendment stayed October 31, 1979; paragraph (c) amended July 21, 1980 to be effective September 8, 1980; paragraph (d) amended July 16, 1981 to be effective September 14, 1981; former paragraph (b) deleted and former paragraphs (c) and (d) redesignated as (b) and (c) November 1, 1985 to be effective January 2, 1986; paragraphs (a), (b) and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended July 12, 2002 to be effective September 3, 2002; paragraph (c) amended July 27, 2006 to be effective September 1, 2006; paragraphs (a), (b) and (c) amended, subparagraphs (c)(1) and (c)(2) amended, former subparagraphs (c)(3) and (c)(4) deleted, and former subparagraphs (c)(5) and (c)(6) redesignated as (c)(3) and (c)(4) July 22, 2014 to be effective January 1, 2015.

1:21-10. Provision of Legal Services Following Determination of Major Disaster

(a) . . . no change

(b) Temporary Practice in New Jersey Following Major Disaster. Following the determination of an emergency affecting the justice system in New Jersey pursuant to paragraph (a) of this Rule, or a determination that persons displaced by a major disaster in another jurisdiction and residing in New Jersey are in need of pro bono services and the assistance of lawyers from outside of New Jersey is required to help provide such assistance, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this jurisdiction on a temporary basis. Such legal services must be provided on a pro bono basis without compensation, expectation of compensation or other direct or indirect pecuniary gain to the lawyer. Such legal services shall be assigned and supervised through [an established not-for-profit bar association, pro bono program or legal services program] a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3), or through such organization(s) specifically designated by the Court.

(c) . . . no change

(d) . . . no change

(e) . . . no change

(f) . . . no change

(g) . . . no change

Note: Adopted July 9, 2008 to be effective September 1, 2008; paragraph (b) amended July 22, 2014, to be effective January 1, 2015.

1:21-11. Definitions and Certifications Regarding Pro Bono Practice [new]

(a) Definitions.

(1) Qualifying Pro Bono Service. Qualifying pro bono service consists of:

(i) legal assistance to low-income persons;

(ii) legal assistance to nonprofit charitable, religious, civic, community, or educational organizations or governmental entities in matters that are designed primarily to address the needs of low-income persons;

(iii) legal assistance to individuals, groups, or organizations seeking to secure, protect, or advance civil rights, civil liberties, or other rights of great public importance;

or

(iv) legal assistance to nonprofit charitable, religious, civic, community, or educational organizations or governmental entities in matters in furtherance of their purposes, where payment of standard legal fees would significantly deplete the organization's or entity's economic resources or would otherwise be inappropriate.

Qualifying pro bono service does not include partisan political activity or service on a nonprofit board of directors or other service that is unrelated to the provision of legal representation or legal advice. It does include legal mentoring and training to prepare attorneys, or students in a law school clinical or pro bono program as defined in subsection (a)(3), to provide qualifying pro bono service.

Qualifying pro bono service is undertaken outside the course of ordinary commercial practice and is performed without a fee from the client. If a fee-shifting statute applies in a qualifying pro bono case, attorneys or firms in commercial practice

may seek fees and are strongly encouraged to donate them to a legal services or public interest organization or law school clinical or pro bono program as defined in subsections (a)(2) and (3). If an attorney or firm in commercial practice retains fees in a qualifying pro bono case, no attorney may claim an exemption from court-appointed pro bono service based on the hours expended on that case. See R. 1:21-12(b). Cases accepted on a contingency fee basis do not constitute qualifying pro bono service regardless of whether the attorney receives a fee.

(2) Legal Services or Public Interest Organization. Legal Services of New Jersey and the associated regional programs are legal services organizations. Other legal services or public interest organizations include any nonprofit organization incorporated in this or any state with a central purpose of providing qualifying pro bono service as defined in subsection (a)(1).

(3) Law School Clinical or Pro Bono Program. A law school clinical or pro bono program is one that operates under the auspices of a law school accredited in this state and has a central purpose of providing qualifying pro bono service as defined in subsection (a)(1).

(b) Certifications.

(1) Certification of Legal Services or Public Interest Organizations and Law School Clinical or Pro Bono Programs.

Legal Services of New Jersey and the associated regional programs shall be deemed certified under this Rule without the need to file certifications.

Except as provided in subsection (b)(3), any other legal services or public interest organization or law school clinical or pro bono program that provides legal assistance at least in part through the cooperation of pro bono volunteers and seeks to take advantage of the opportunities offered in Rules 1:21-12(a) (Madden-exemption based on pro bono service in conjunction with certified organization or program); 1:21-3(b), (c) (special practice rule for law students, recent graduates, and out-of-state attorneys); 1:21-10 (special practice rule following determination of major disaster); or 1:27-2(g) (special practice rule for limited license attorneys) shall:

(i) file with the Clerk of the Supreme Court an initial certification on a Judiciary-approved form, signed by the organization's or program's lead attorney who practices law in New Jersey, demonstrating that the organization or program meets the definition in subsection (a)(2) or (a)(3) of this rule, provided, however, that any organization or program that has already received Supreme Court approval as of the effective date of this rule, as reflected in a list to be made available by the Administrative Director of the Courts, shall not be required to provide such a certification; and

(ii) file with the Clerk of the Supreme Court, by April 30 of every year, a certification on a Judiciary-approved form signed by the organization's or program's lead attorney who practices law in New Jersey certifying

(a) that the organization or program continues to meet the definition in subsection (a)(2) or (3) of this rule; and



(b) a list of attorneys who have provided qualifying pro bono service under the auspices of the organization or program in the preceding year;

(iii) notify the Clerk of the Supreme Court at such time as the organization or program no longer meets the definition in subsection (a)(2) or (3) of this rule.

An organization or program that fails to timely file its yearly certification under R. 1:21-11(b)(1)(ii) will lose its status as a certified entity under subsection (b)(1).

(2) Approval and Certification for Waiver of Fees. Legal Services of New Jersey and the associated regional programs shall be deemed eligible, without the need to seek approval or file certifications, for a waiver of fees without the necessity of a court order as provided in R. 1:13-2(a).

Any other public interest or legal services organization or law school clinical or pro bono program may seek approval for such a waiver by filing a certification on a Judiciary- approved form with the Clerk of the Supreme Court, which may be included with an initial certification filed under subsection (b)(1)(i), demonstrating that the organization or program screens its clients to establish their low incomes, provided, however, that organizations and programs that have already received Supreme Court approval for a fee waiver as of the date of this Rule, and submit documentation of such prior approval to the Clerk of the Supreme Court, shall not be required to provide such a certification.

If approval is granted, the entity shall:

(i) file with the Clerk of the Supreme Court by April 30 of every year a certification on a Judiciary-approved form, which may be included with the certifications filed annually under subsection (b)(1)(ii), demonstrating that the organization or program continues to screen its clients to establish their low incomes; and

(ii) notify the Clerk of the Supreme Court at such time as the organization or program, or any part thereof, no longer screens clients to establish their low incomes.

An organization or program that fails to timely file its yearly certification under R. 1:21-11(b)(2)(i) shall lose the ability to waive fees under R. 1:13-2.

(3) Certification of Governmental Entities.

Federal, state, or local governmental entities that provide legal assistance at least in part through the cooperation of pro bono volunteers and seek to take advantage of the opportunities offered in Rules 1:21-12(a) (*Madden*-exemption based on pro bono service in conjunction with certified organization or program); 1:21-3(b), (c) (special practice rule for law students, recent graduates, and out-of-state attorneys); 1:21-10 (special practice rule following determination of major disaster); or 1:27-2(g) (special practice rule for limited license attorneys) shall:

(i) file with the Clerk of the Supreme Court an initial certification on a Judiciary-approved form, signed by the government entity's lead attorney who practices law in New Jersey, provided, however, that any government entity that already has received Supreme Court approval as of the effective date of this rule, as reflected in a list to be made available by the Administrative Director of the Courts, shall not be required to provide such a certification; and

(ii) file with the Clerk of the Supreme Court, by April 30 of every year, a certification on a Judiciary-approved form signed by the government entity's lead attorney who practices law in New Jersey certifying a list of attorneys who have provided qualifying pro bono service under the auspices of the government entity in the preceding year.

A government entity that fails to timely file its yearly certification under R. 1:21-11(b)(3) will lose its status as a certified entity.

Note: Adopted July 22, 2014 to be effective January 1, 2015.

1:21-12. *Madden-Exemption Based on Voluntary Qualifying Pro Bono Service* [new]

(a) Exemption Based on Qualifying Pro Bono Service in Conjunction with a Certified Entity. Attorneys who certify that they have performed at least twenty-five (25) hours of voluntary (as distinct from court-appointed) qualifying pro bono service in New Jersey in the year ending on December 31 before the certification date shall be exempt from court-appointed pro bono service under *Madden v. Delran*, 126 N.J. 591 (1992), for the following year, provided that the certification states that the voluntary qualifying pro bono service was performed in conjunction with an entity certified under R. 1:21-11(b)(1) or (3) and identifies the entity with which the attorney collaborated.

(b) No *Madden-Exemption* If Attorney Retains Fees. If an attorney or firm in commercial practice retains fees (as distinct from costs) in a qualifying pro bono case, whether awarded by a court or negotiated in settlement of a matter in which a fee-shifting statute applies, such attorney may not claim an exemption from court-appointed pro bono service based on the hours expended on that case.

Note: Adopted July 22, 2014 to be effective January 1, 2015.

1:27-2. Limited License; In-House Counsel

To be eligible to practice law in New Jersey as an in-house counsel, a lawyer must comply with the provisions of this Rule. A limited license issued by the Supreme Court pursuant to this Rule shall authorize the lawyer to practice solely for the designated employer in New Jersey. Except as specifically limited herein, the rules, rights and privileges governing the practice of law in this State shall be applicable to a lawyer admitted under this Rule.

(a) . . . no change

(b) Requirements. All applications under this Rule are to be submitted to the Secretary to the Board of Bar Examiners. An in-house counsel who is admitted to practice law before the highest court of any other state, territory of the United States, Puerto Rico, or the District of Columbia (hereinafter a United States jurisdiction) may receive a limited license to practice law in this State under the following conditions:

(i) . . . no change

(ii) . . . no change

(iii) Except as provided in paragraph (g), the [The] applicant certifies that he or she performs legal services in this State solely for the identified employer, or that he or she performs legal services in this State solely for the identified employer and its constituents (employees, directors, officers, members, partners, shareholders) in respect of the same proceeding or claim as the employer, provided that the performance of such services is consistent with RPC 1.13 and RPC 1.7; and

(iv) . . . no change

(c) . . . no change

(d) . . . no change

(e) Duration. The limited license to practice law in this State shall expire if such lawyer is admitted to the Bar of this State under any other rule of this Court, or if such lawyer ceases to be an employee for the employer or its parent, subsidiary, or affiliated entities, listed on such lawyer's application, whichever shall first occur; provided, however, that if such lawyer, within ninety days of ceasing to be an employee for the employer or its parent, subsidiary, or affiliated entities listed on such lawyer's application, becomes employed by another employer for which such lawyer shall perform legal services as in-house counsel, such lawyer may maintain his or her admission under this Rule by promptly filing with the Secretary to the Board of Bar Examiners a certification to such effect, stating the date on which his or her prior employment ceased and his/her new employment commenced, identifying his or her new employer and reaffirming that he or she shall not provide legal services, in this State, to any individual or entity other than as described in paragraphs (b)(iii) or (g). The lawyer shall also file a certification of the new employer as described in paragraph (b)(iv). In the event that the employment of a lawyer admitted under this Rule shall cease with no subsequent employment by a successor employer within ninety days, such lawyer shall promptly file with the Secretary to the Board of Bar Examiners a statement to such effect, stating the date that such employment ceased.

(f) . . . no change

(g) Pro Bono. A lawyer with a limited license to practice pursuant to this rule is exempt from court-appointed pro bono service under *Madden v. Delran*, 126 N.J. 591 (1992). Such lawyer may nevertheless serve as a volunteer pro bono attorney with an entity certified under R. 1:21-11(b)(1) or (3), provided that such pro bono service shall cease upon expiration of the limited license to practice in this State as described in paragraph (e).

However, when a lawyer with a limited license to practice ceases to be an employee for the employer or its parent, subsidiary, or affiliated entities listed on such lawyer's application, the lawyer may continue any ongoing pro bono representation for a maximum period of one year.

(h) Not Admitted. Lawyers with a limited license to practice pursuant to this rule are not, and should not represent themselves to be, members of the bar of this State.

Note: Adopted November 17, 2003 to be effective January 1, 2004 (Former Rule 1:27-2 redesignated as Rule 1:27-3 November 17, 2003 to be effective January 1, 2004); paragraph (e) amended November 29, 2006 to be effective immediately; first paragraph and subparagraph (b)(iii) and paragraphs (d) and (e) amended July 9, 2008 to be effective September 1, 2008; subparagraph (b)(iii) amended, paragraph (e) amended, and new paragraphs (g) and (h) adopted July 22, 2014 to be effective January 1, 2015.

RPC 1.8 Conflict of Interest: Current Clients: Specific Rules

(a) . . . no change

(b) . . . no change

(c) . . . no change

(d) . . . no change

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(1) . . . no change

(2) . . . no change

(3) [A non-profit] a legal services or public interest organization, a law school clinical or pro bono program, or an attorney providing qualifying pro bono service as defined in R. 1:21-11(a), [authorized under R. 1:21-1(e)] may provide financial assistance to indigent clients whom [it] the organization, program, or attorney is representing without fee.

(f) . . . no change

(g) . . . no change

(h) . . . no change

(i) . . . no change

(j) . . . no change

(k) . . . no change

(l) . . . no change

Note: Adopted September 10, 1984 to be effective immediately; paragraph (e) amended July 12, 2002 to be effective September 3, 2002; caption amended, paragraphs (a), (b), (c), (f), (g), (h) amended, former paragraph (i) deleted, former paragraph (j) redesignated as paragraph (i), former paragraph (k) deleted, and new paragraphs (j) , (k) and (l) added November 17, 2003 to be effective January 1, 2004; subparagraph (e)(3) amended July 22, 2014 to be effective January 1, 2015.