TITLE 3. PROGRAMS AND SERVICES

DIVISION 3. NON-MEMBER ATTORNEYS

CHAPTER 1. MULTIJURISDICTIONAL PRACTICE

ARTICLE 2. REGISTERED IN-HOUSE COUNSEL

Rule 3.370 Definitions

(A) An attorney registered as Registered In-House Counsel is an attorney who meets the eligibility requirements of Rule 9.46 of the California Rules of Court ("Rule 9.46") and is registered by the State Bar as Registered In-House Counsel.

(B) "Registered" means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as Registered In-House Counsel.

(C) A "qualifying institution" is a corporation, a partnership, an association, or other legal entity that meets the requirements of Rule of Court 9.46(a)(1).

Rule 3.371 Application

(A) To apply to register as Registered In-House Counsel, an attorney who meets the eligibility and employment requirements of Rule 9.46 must

(1) submit an Application for Registration[1] as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;[2]

(2) submit an Application for Registered In-House Counsel[3] with the fee set forth in the Schedule of Charges and Deadlines;

(3) meet State Bar requirements for acceptable moral character; and

(4) submit a Declaration of Qualifying Institution.[4]

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[1] See Rule 4.16(B).

[2] See Rule 4.3(B).

[3] See Rule of Court 9.46(d).

[4] Rule of Court 9.46(a)(1).

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(B) An application to practice law as Registered In-House Counsel may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact in the application.

Rule 3.372 Duties of Registered In-House Counsel

An attorney employed as Registered In-House Counsel must

(A) annually renew registration as Registered In-House Counsel and submit the fee set forth in the Schedule of Charges and Deadlines;

(B) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.46;

(C) use the title "Registered In-House Counsel" and no other in connection with activities performed as Registered In-House Counsel;

(D) not claim in any way to be a member of the State Bar of California;

(E) maintain an address of record with the State Bar, which must be the current California office address of the attorney's employer and a current e-mail address;

(F) report to the State Bar within thirty days

(1) a change in status in any jurisdiction where admitted to practice law and engaged in the practice of law, such as transfer to inactive status, disciplinary action, suspension, resignation, disbarment, or a functional equivalent;

(2) termination of employment with the qualifying institution; or

(3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;

(G) submit a new application to register as Registered In-House Counsel before beginning employment with a new qualifying institution;[5] and

(H) otherwise comply with the requirements of Rule 9.46 and these rules.

Rule 3.373 Duties of employer

[5] Rule of Court 9.46(a)(1).

(A) A qualifying institution prospectively employing of an attorney applying for registration as Registered In-House Counsel must complete a Declaration of Qualifying Institution.

(B) Within thirty days of ceasing to meet the requirements of Rule of Court 9.46(a), an employer of Registered In-House Counsel must report that to the State Bar that it is no longer a qualifying institution.

Rule 3.374 Suspension of Registered In-House Counsel registration

(A) Registration as In-House Counsel is suspended

(1) for failure to annually register as Registered In-House Counsel and submit any related fee and penalty set forth in the Schedule of Charges and Deadlines;

(2) for failure to comply with the Minimum Continuing Legal Education requirement of Rule of Court 9.46 and pay any related fee and penalty set forth in the Schedule of Charges and Deadlines;

(3) upon transfer to inactive status, disciplinary action, suspension, resignation, disbarment, or a functional equivalent in status in any jurisdiction where admitted to practice law;

(4) upon imposition of discipline by a professional or occupational licensing authority; or

(5) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a member of the State Bar.

(B) An attorney suspended under these rules is not permitted to practice law. An attorney suspended for failure to comply with annual renewal or MCLE requirements may be reinstated upon compliance.

(C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

Rule 3.375 Termination of Registration

Permission to practice law as Registered In-House Counsel terminates

(A) upon failure to meet the eligibility requirements of Rule 9.46 or these rules;

(B) as required by Rule 9.46 or these rules;

(C) upon admission to the State Bar;

(D) upon repeal of Rule 9.46 or termination of the Registered In-House Counsel program; or

(E) upon request.

Rule 3.376 Reinstatement after termination

An attorney terminated as Registered In-House Counsel who seeks reinstatement must meet all eligibility and application requirements of these rules.

Rule 3.377 Public information

State Bar records for attorneys permitted to practice law as Registered In-House Counsel are public to the same extent as member records.

RULES OF THE STATE BAR OF CALIFORNIA
REGISTERED IN-HOUSE COUNSEL PROGRAM

Rule 1. Purpose

The Board of Governors adopts these rules pursuant to California Rules of Court, rule 9.46(h), to establish and administer the Registered In-House Counsel Program. California Rules of Court, rule 9.46, permits an attorney who resides in California and who is licensed to practice law in one or more jurisdictions of the United States other than California to register to provide legal services as in-house counsel for a single Qualifying Institution in California without becoming a member of the State Bar of California.

Rule 2. Requirements

To become Registered In-House Counsel, an attorney must comply with the requirements under California Rules of Court, rule 9.46(c) and those under these rules.

Rule 3. Scope of Practice

Under California Rules of Court, rule 9.46 and these rules, Registered In-House Counsel is permitted to practice law in California exclusively for a Qualifying Institution that employs him or her. Registered In-House Counsel is not permitted to provide personal or individual representation to any customers, shareholders, owners, partners, officers, employees, servants, or agents of the Qualifying Institution.

Registered In-House Counsel is not permitted to make court appearances in California state courts or to engage in any other activities for which pro hac vice admission is required if they are performed in California by an attorney who is not a member of the State Bar of California.

Registered In-House Counsel shall practice for a single qualifying institution, except that, while practicing as Registered In-House Counsel, an attorney may, if so qualified, simultaneously practice law as a Registered Legal Services Attorney.

Rule 4. Registration

To apply to practice law as Registered In-House Counsel, an attorney must:

(a) Complete and file an Application for Registration as In-House Counsel in a form provided by the State Bar of California which shall include, but is not limited to the following:

> (1) A certificate indicating that the attorney is currently an active member in good standing and eligible to practice law in at least one jurisdiction of the United States.

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(2) A declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will only practice law in California for a single Qualifying Institution during the time he or she practices law as Registered In-House Counsel, except that if so qualified, the attorney may, while practicing under this rule, simultaneously practice law as a Registered Legal Services Attorney.

(3) A declaration signed by an officer, director, or general counsel, on behalf of the Qualifying Institution where the attorney will work, attesting that: (i) to the best of the declarant's knowledge, after reasonable inquiry, the attorney qualifies for registration under California Rules of Court, rule 9.46, and is an individual of good moral character; (ii) the attorney will be employed as in-house counsel for the Qualifying Institution; (iii) the nature of the employment will conform to the requirements of California Rules of Court, rule 9.46; (iv) the Qualifying Institution meets the requirements specified in California Rules of Court, rule 9.46(a)(1), and will notify the State Bar of California within 30 days of any change in its qualifying status; and (v) the Qualifying Institution will notify the State Bar of California within 30 days of cessation of the attorney's employment.

(4) An application for determination of moral character. The moral character review will be conducted by the Committee of Bar Examiners pursuant to the provisions of Rule X of the Rules Regulating Admission to Practice Law in California. The Committee may extend the time specified in Section 2(c) of Rule X for a reasonable time upon written notice to the attorney.

(5) Such other information or documentation requested by the State Bar of California.

(b) Submit payment of the non-refundable application fees.

Rule 5. <u>Qualifying Institution</u>

(a) A "Qualifying Institution" under California Rules of Court, rule 9.46 is a corporation, partnership, association or other legal entity, including its subsidiaries and organizational affiliates, which either:

(1) Employs at least 10 employees full-time in California; or

(2) Employs in California an attorney who is an active member in good standing of the State Bar of California.

(b) A "Qualifying Institution" under California Rules of Court, rule 9.46 does not include a governmental agency or an entity that provides legal services to others.

Rule 6. Address of Record, Service

The office address of the Qualifying Institution where the attorney will work shall be the Registered In-House Counsel's address of record for State Bar purposes under California Business and Professions Code, section 6002.1. Within 30 days of cessation of employment, Registered In-House Counsel shall provide the State Bar of California with a forwarding address to which any notices or papers may be mailed.

Rule 7. Minimum Continuing Legal Education

Registered In-House Counsel must satisfy in the first 12 months after approval of his or her application the 25 hours of legal education that members of the State Bar of California must complete in a 36-month period. If the date to comply with this initial period of legal education requirements falls between January 1 and June 30, the attorney shall report his or her compliance no later than August 1 of the same year; if the date to comply falls between July 1 and December 31, the attorney shall report his or her compliance no later than February 1 of the following year. Thereafter, compliance with the Minimum Continuing Legal Education (MCLE) requirements, under California Rules of Court, rule 9.46(c)(7), shall be governed by the rules governing members of the State Bar of California.

Rule 8. Fees

(a) Application Fees

Application fees must be submitted with an attorney's registration application and are not refundable. The application fees include the following:

(1) A processing fee in an amount approved by the Board of Governors of the State Bar of California.

(2) A moral character determination fee in an amount approved by the Board of Governors of the State Bar of California.

(b) Annual Registration Fee

Registered In-House Counsel shall pay an annual registration fee in an amount equal to the annual membership fee paid by active members of the State Bar of California. Payment of the annual registration fee shall be due on the same date that the annual membership fee is due for members of the State Bar of California. The annual registration fee of Registered In-House Counsel may be scaled pursuant to California Business and Professions Code, section 6141.1(b) and the Rules and Regulations of the State Bar of California that govern fee scaling.

Rule 9. Denial of Application

The attorney's application may be denied for any of the following reasons:

(a) The attorney fails to submit the registration materials as required by Rule 4(a) of these rules.

(b) The attorney fails to timely pay the application fees as required by Rule 4(b) of these rules.

(c) The attorney fails to meet the eligibility requirements as set forth in California Rules of Court, rule 9.46(c).

(d) The Qualifying Institution fails to meet the eligibility requirements as set forth in California Rules of Court, rule 9.46(a)(1).

(e) The attorney makes a false representation or misstatement of material fact in his or her application.

(f) The attorney was practicing as in-house counsel on or after November 15, 2004, but failed to apply for the Registered In-House Counsel Program by May 15, 2005.

(g) The attorney has been suspended or disbarred or resigned with charges pending with any professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.

Rule 10. Discipline

The California Rules of Professional Conduct are binding upon all Registered In-House Counsel. Any violation of the Rules of Professional Conduct may subject Registered In-House Counsel to disciplinary action in accordance with the applicable provisions of the Rules of Procedure of the State Bar of California.

Rule 11. Revocation

(a) Upon reasonable notice, Registered In-House Counsel's registration and authority to practice in California under California Rule of Court, rule 9.46 shall be revoked for any of the following reasons:

(1) Failure to pay the annual registration fee.

(2) Failure to comply with the Minimum Continuing Legal Education requirements specified in Rule 7 of these rules.

(3) Failure to maintain active status in at least one jurisdiction of the United States in which he or she is admitted to practice law.

(4) Receipt of a final adverse moral character determination from the Committee of Bar Examiners.

(5) Failure to report to the State Bar of California as required by Rule 12 of these rules.

(b) When Registered In-House Counsel's registration has been revoked under subsection (a) above, the attorney will not be permitted to petition the State Bar of California for reinstatement.

(c) Registered In-House Counsel ceasing to be employed with a Qualifying Institution shall have his or her registration in the Registered In-House Counsel Program revoked; however, the attorney may re-register in the Program with a new Qualifying Institution.

Rule 12. Reporting

(a) Registered In-House Counsel shall notify the State Bar of California, in writing, within 30 days of any of the following:

(1) Change of address.

(2) Change in status in any jurisdiction where the attorney is admitted to practice law, including, but not limited to, notification of transfer to inactive status, disciplinary action, suspension, resignation, disbarment or its functional equivalent.

(3) Change of employment. Registered In-House Counsel must report if his or her employment with a Qualified Institution has been terminated. An attorney who has obtained employment with a new Qualified Institution must submit a new registration application, in a form provided by the State Bar of California.

(4) Reporting requirements imposed upon members of the State Bar of California under the State Bar Act, including, but not limited to, those required under California Business and Professions Code, sections 6068(o) and 6086.8(c).

(b) A Qualifying Institution shall notify the State Bar of California, in writing, within 30 days of any of the following:

(1) Cessation of employment of Registered In-House Counsel.

(2) Change in qualifying status as a corporation, partnership, association, or other legal entity under California Rules of Court, rule 9.46(a)(1).

Rule 13. Renewal

On an annual basis, Registered In-House Counsel shall submit a renewal application in a form provided by the State Bar of California, which shall include, but is not limited to the following:

(a) Payment of the annual registration fee.

(b) A certificate indicating that the attorney is currently an active member in good standing and eligible to practice law in at least one jurisdiction of the United States.

(c) Such other information or documentation requested by the State Bar of California.

Rule 14. Use of Title "Registered In-House Counsel"

An attorney duly registered under these rules shall be known as "Registered In-House Counsel" and shall use this title, and no other title, in connection with activities performed pursuant to California Rules of Court, rule 9.46.

Registered In-House Counsel shall not, in any way, hold himself or herself out as being a member of the State Bar of California.

Rule 15. Public Records

Information about Registered In-House Counsel shall be public to the same extent that information about a member of the State Bar of California is public.