

## DC CONSORTIUM OF LEGAL SERVICES PROVIDERS

March 1, 2016

Cynthia Wright  
Committee on Unauthorized Practice of Law  
430 E Street NW, Room 123  
Washington, DC 22201  
*Via Email to: [cynthia.g.wright@usdoj.gov](mailto:cynthia.g.wright@usdoj.gov)*

RE: COMMENTS ON D.C. COURT OF APPEALS RULE 49

Dear Ms. Wright:

On behalf of the D.C. Consortium of Legal Services Providers, we write to comment on District of Columbia Court of Appeals Rule 49.

By way of background, the D.C. Consortium of Legal Services Providers is a coalition of 30 member organizations, the vast majority of which provide direct legal services to low-income District of Columbia residents. The Consortium's mission is to coordinate the delivery, expand the availability, and improve the quality of legal services and advocacy for poor and disadvantaged individuals, families, and communities in the District of Columbia. A list of our current members is enclosed with this letter.

As you know, in the District of Columbia, the vast majority of the legal needs of people with limited means go unmet. The exceptions provided in Rule 49 that allow individuals not admitted (or yet admitted) to the D.C. Bar to provide legal services to indigent clients have been instrumental in expanding access to justice to our most vulnerable neighbors. The Consortium believes, however, that certain revisions to Rule 49 would further expand the pool of attorneys eligible to perform pro bono work and remove unnecessary obstacles for those attorneys already engaged in providing legal services to individuals of limited means under the rule.

To that end, **the Consortium has worked closely with the D.C. Access to Justice Commission over the preceding months to arrive at proposed revisions to the rule that are set forth in detail in the Commission's comment letter and its attachments, which the Consortium joins in its entirety.** It is our understanding that the Washington Council of Lawyers supports these proposed revisions as well, and that these recommendations are also substantially similar to those proposed by the D.C. Bar Pro Bono Committee. We think it noteworthy that these four entities in the District of Columbia, all advancing goals related to access to justice through the provision of high quality legal services to people living in poverty, have all come together to support similar revisions to the current rule.

We would like to take this opportunity to highlight several particular proposals that would significantly impact our organizations and the clients we serve.

**First, we recommend that attorneys practicing under Rule 49(c)(9) who are required to apply for D.C. Bar membership be permitted to practice until such time as their bar application has been accepted or rejected.** The elimination of the 360-day limitation on practice for those who are awaiting admission to the D.C. Bar avoids the unnecessary and disruptive consequences to attorneys whose applications remain pending due to no fault of their own. Because the admissions process often takes more than 360 days, the practical effect of this rule is to force attorneys to transfer their cases if the time limit lapses before their applications have been acted upon. A number of Consortium member organizations frequently face this situation with new attorneys. It creates significant hardship for legal services organizations and extreme disruption for the clients they represent. The expiration of the 360 days currently allotted under the rule unfairly penalizes attorneys who have taken all of the required steps to meet the conditions for pro bono service and who are victim to administrative delays over which they have no control. It is particularly arbitrary in that the lapse of the 360-day time limit does not implicate the attorneys' qualifications or call into question the attorneys' competence to continue to provide services.

**Second, we recommend that the Committee consider a new provision that would, under certain circumstances, permit law school graduates affiliated with the Public Defender Service or a non-profit legal services organization to practice while their bar applications are pending.** It is our understanding that roughly forty other jurisdictions permit practice by law school graduates awaiting bar results and/or admission to a bar. The District currently does not allow for such law graduates—affiliated with non-profit organizations that provide legal assistance to individuals with limited means, but not yet admitted to any bar—to practice law, even under the supervision of admitted attorneys. As a result, Consortium member organizations are challenged to make optimal use of recent law graduates who are awaiting bar admission. Because bar admissions processes can take many months, depending on the jurisdiction, legal services organizations are regularly in the position of having recent law school graduates on staff who cannot contribute to their full potential. Especially as more law graduates are joining our organizations on time-limited (often law school-sponsored, so-called “bridge”) fellowships, we are finding that these post-graduate fellows often spend most if not all of their time with us ineligible to practice law. This limits our organizations' ability not only to provide the law graduate with a rich experience during his/her time with us, but also to leverage fully the opportunity that these fellowships offer to expand our capacity to provide legal services. The proposed provision would require that these recent law graduates practice under the supervision of admitted attorneys. We note that the Court has issued several Administrative Orders pursuant to Rule 49(c)(10) permitting law clerks employed by certain organizations to practice, under supervision, in certain types of cases while they are awaiting admission to a bar. It is our understanding that those Orders have been widely regarded as successful.

**Third, we recommend revising the process for submitting the Certification of Practice Pro Bono Publico to the Committee on Admissions.** Currently, legal services attorneys practicing under Rule 49(c)(9) pending admission to the D.C. Bar file a Form 9 (Certification of Practice Pro Bono Publico) first with the Committee on Admissions and then append a copy of that form,

along with a receipt issued by the clerk of the Committee on Admissions, to each praecipe of appearance filed with the D.C. Superior Court or Court of Appeals. We believe that this process is unnecessarily cumbersome for employees of PDS and legal services organizations, who regularly appear in court and sometimes must prepare and submit multiple certifications in a given week. We propose, therefore, that employees of PDS and legal services organizations practicing under Rule 49(c)(9) be permitted to file with the Committee on Admissions a single Form 9 at the commencement of their employment indicating that they will be practicing under Rule 49(c)(9) during the duration of the pendency of their bar application. Those attorneys would still file a copy of their completed Form 9 with a praecipe of appearance in each individual case indicating the name of the enrolled, active D.C. Bar member who is supervising their work. This simplified procedure will both ensure that the judge presiding over each case handled by the PDS or legal services attorney has the requisite information about who is supervising and taking responsibility for the work, and satisfy the need of the Committee on Admissions to maintain a record of attorneys practicing under Rule 49(c)(9).

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Although we wanted to use this opportunity to highlight several of the proposals of particular interest to the Consortium's member organizations, we reiterate that we join in all of the Commission's recommendations, which are described in greater detail in its letter. We believe these changes will make it easier for pro bono attorneys to provide much-needed legal services to individuals of limited means in the District of Columbia.

We thank the Committee on the Unauthorized Practice of Law for this opportunity to provide comments and feedback on Rule 49(c)(9).

Sincerely,



Rochanda Hiligh-Thomas  
Director of Legal Services & Advocacy  
Advocates for Justice & Education



Chinh Q. Le  
Legal Director  
Legal Aid Society of the District of Columbia

*Co-Chairs, D.C. Consortium of Legal Services Providers*

Enclosure