

RULES GOVERNING FOREIGN LEGAL CONSULTANTS

NMRA

IN THE SUPREME COURT OF THE
STATE OF NEW MEXICO

NO. 94-8300

IN THE MATTER OF THE ADOPTION OF THE
RULES GOVERNING FOREIGN LEGAL CONSULTANTS

This matter coming on for consideration by the Court on its own motion to adopt Rules Governing Foreign Legal Consultants, and the Court being sufficiently advised, Chief Justice Seth D. Montgomery, Justice Richard E. Ransom, Justice Joseph F. Baca, Justice Gene E. Franchini and Justice Stanley F. Frost concurring:

NOW, THEREFORE, IT IS ORDERED that the Rules Governing Foreign Legal Consultants, SCRA 1986, 26-101, 26-102, 26-103, 26-104, 26-105 and 26-106 hereby are adopted;

IT IS FURTHER ORDERED that the Rules Governing Foreign Legal Consultants shall be effective January 1, 1995;

IT IS FURTHER ORDERED that the Clerk of the Court is hereby authorized and directed to give notice of the adoption of the Rules Governing Foreign Legal Consultants by publishing the same in the Bar Bulletin and in the SCRA 1986.

DONE at Santa Fe, New Mexico this 30th day of September, 1994.

/s/ SETH D. MONTGOMERY
Chief Justice

/s/ RICHARD E. RANSOM
Justice

/s/ JOSEPH F. BACA
Justice

/s/ GENE E. FRANCHINI
Justice

/s/ STANLEY F. FROST
Justice

26-101. Certificate of registration as a foreign legal consultant; applicant qualifications.

The Supreme Court, in its discretion, may issue a certificate of registration licensing to practice as a foreign legal consultant, without examination, to an applicant who:

A. has been admitted to practice law in a foreign country, the members of which are admitted to practice as attorneys or counselors at law and are subject to regulation and discipline by a duly constituted professional body or a public authority, and

(1) has been actively engaged in the actual practice of law in that country for at least five (5) of the last seven (7) years prior to the date of the filing of the application;

(2) is in good standing to practice law in that country;

(3) has not been disbarred, been placed under disciplinary suspension, or resigned from the practice of law in any country or jurisdiction while under disciplinary investigation; and

(4) is not the subject of any pending disciplinary proceedings in such country, or if the applicant has been suspended or disbarred, that the applicant has been duly reinstated;

B. possesses the good moral character and fitness required for a member of the bar of New Mexico;

C. is of suitable age, but in no event less than the minimum age required for the admission to the practice of law in the State of New Mexico;

D. complies with the immigration laws of the United States, provided that a certificate may be made conditional upon filing with the Supreme Court appropriate documentation of compliance; and

E. is licensed in a foreign country that allows members of the bar of New Mexico the opportunity to render services as a foreign legal consultant under substantially similar circumstances as are provided by this rule.

[Adopted, effective January 1, 1995.]

ANNOTATIONS

Effective dates. - Pursuant to a court order dated September 30, 1994, this rule is effective January 1, 1995.

26-102. Application requirements; certificate; application fee.

A. An applicant for a certificate of registration as a foreign legal consultant shall file an application with the Supreme Court on a form provided by the Supreme Court, which shall be accompanied by the fee required by Paragraph F of this rule. Any English translation required by this rule shall meet the requirements of federal law or rules for translations in support of visa applications. The application shall include, but may not be limited to:

(1) a certificate from a professional body or public authority of the foreign country having final jurisdiction over professional discipline, certifying the applicant's admission to practice and the date thereof, and to the applicant's good standing as an attorney or counselor at law or the equivalent, accompanied by an English translation of the certificate, if it is not in English translation;

(2) a letter of recommendation from one of the members of the executive body of such authority, from one of the judges of the highest court of law or court of original jurisdiction of such foreign country or from a duly organized bar association, accompanied by an English translation of the letter if it is not in English;

(3) a summary of the law or rules of such foreign country that permit members of the bar of New Mexico to establish offices for the purpose of giving legal advice to clients in such foreign country, accompanied by an English translation of the law or rules if it is not in English, provided, however, that the Court may waive this requirement if it has already received an approved English language text of the law or rules of the foreign country;

(4) such other evidence as to the applicant's educational and professional qualifications, good moral character and general fitness as the Supreme Court may require;

(5) a duly acknowledged written statement setting forth the applicant's home address and business address in the State of New Mexico and designating an agent for service in State of New Mexico upon whom process may be served as if the applicant had been served personally in any action or proceeding thereafter brought against the applicant 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 New Mexico whenever, after due diligence, service cannot be made upon the applicant at the latest address filed with the clerk of the Supreme Court; and

(6) an acknowledged written statement confirming that the Supreme Court will be immediately advised of any law suit brought against the applicant that arises out of or is based upon any legal services rendered or offered to be rendered by the applicant within the State of New Mexico.

B. The applicant shall disclose all past charges of professional misconduct and shall show that the applicant has never been disbarred nor had a license suspended, and that there are no charges of misconduct pending against the applicant.

C. The Supreme Court may investigate the professional qualifications and moral character of any applicant for a certificate of registration as a foreign legal consultant and may require additional proof or information. If the Supreme Court determines that the applicant possesses all the qualifications set forth in this rule, it may issue a certificate of registration as a foreign consultant.

D. The certificate of registration as a foreign legal consultant shall be valid until surrendered or revoked for cause pursuant to Rule 26-105.

E. Prior to the issuance of a certificate of registration, each applicant shall execute and file with the Supreme Court an oath or affirmation in the form prescribed by the Supreme Court attesting that the foreign legal consultant will uphold and abide by the rules and regulations applicable to such certified foreign legal consultant.

F. The filing fee to be paid by the applicant to the clerk of the Supreme Court shall be in United States dollars. The fee shall be the greater of the following fees:

(1) the fee charged to persons seeking first-time admission to the State Bar of New Mexico who have graduated from law school more than one year prior to the date of application; or

(2) if the clerk of the Supreme Court has been provided satisfactory evidence that the foreign country in which the applicant is licensed charges a higher fee to members of the bar of New Mexico who are applying in that country for registration as foreign legal consultant, the fee charged to members of the bar of New Mexico for registration in that country as foreign legal consultant.

[Adopted, effective January 1, 1995.]

ANNOTATIONS

Effective dates. - Pursuant to a court order dated September 30, 1994, this rule is effective January 1, 1995.

26-103. Scope of practice.

A registered foreign legal consultant may render legal services and give professional legal advice on the law of the foreign country where the legal consultant is admitted to practice subject, however, to the following limitations that such a foreign consultant may not:

A. appear as an attorney in any court or before any magistrate or judicial officer, except as permitted pursuant to rules applicable to nonadmitted counsel, but may appear before any administrative agency of the State of New Mexico in compliance with agency rules;

B. prepare any pleadings or other papers or issue subpoenas in any action or proceeding brought in any such court, before any such magistrate or other judicial officer, except as permitted pursuant to rules applicable to nonadmitted counsel;

C. render professional legal advice on the law of the State of New Mexico or of the United States whether rendered incident to the preparation of legal instruments except

when such law is applicable also to the foreign country where the legal consultant is admitted to practice or on the basis of advice from a person duly qualified or entitled, other than by virtue of having been licensed under these rules, to render professional advice in the State of New Mexico;

D. in any way hold himself or herself out as an attorney licensed in New Mexico, as a member of the State Bar of New Mexico, or as an attorney licensed in any United States jurisdiction; or

E. use any other title other than "Foreign Legal Consultant", the foreign legal consultant's authorized name, or firm name in the foreign country of the consultant's admission, although a business card or letterhead may contain additional information relating to the legal consultant's practice in the foreign country where the legal consultant is licensed to practice.

[Adopted, effective January 1, 1995.]

ANNOTATIONS

Effective dates. - Pursuant to a court order dated September 30, 1994, this rule is effective January 1, 1995.

26-104. Rights and obligations.

A. A foreign legal consultant registered under these rules shall not be a member of the bar of the State of New Mexico, but shall be considered an affiliate of such bar subject to the same conditions and requirements as apply to a member of such bar insofar as such conditions and requirements are consistent with the provisions of these rules, and not including mandatory continuing legal education requirements, and shall:

(1) enjoy and be subject to all rights and obligations in regard to attorney-client privilege and work product privilege in the same manner and to the same extent as members of the bar of the State of New Mexico; and

(2) be equivalent to an attorney licensed to practice in another state or territory, for purposes of rules relating to nonadmitted or nonresident counsel.

B. Certified foreign legal consultants shall be subject to the Rules of Professional Conduct applicable to all members of the State Bar of New Mexico.

C. Certified foreign legal consultants shall immediately notify the clerk of the Supreme Court of any:

(1) change of home address or business address;

(2) change of agent for service of process; and

(3) claim or action filed against the consultant 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 New Mexico.

[Adopted, effective January 1, 1995.]

ANNOTATIONS

Effective dates. - Pursuant to a court order dated September 30, 1994, this rule is effective January 1, 1995.

26-105. Revocation of license.

In the event that the Supreme Court determines that a person registered as a foreign legal consultant under these rules no longer meets the requirements for registration prescribed by Rule 26-101 it shall revoke the license.

[Adopted, effective January 1, 1995.]

ANNOTATIONS

Effective dates. - Pursuant to a court order dated September 30, 1994, this rule is effective January 1, 1995.

26-106. Application for waiver of provisions.

The Supreme Court may in its discretion vary the application of or waive any provision of these rules where strict compliance will cause undue hardship to the applicant. The applicant shall file a verified application setting forth the applicant's name, residence address, the facts relied upon or other reasons therefor, and a prayer for relief. The Supreme Court may decide the matter administratively and give its decision by letter to the applicant.

[Adopted, effective January 1, 1995.]

ANNOTATIONS

Effective dates. - Pursuant to a court order dated September 30, 1994, this rule is effective January 1, 1995.

NEW MEXICO LOCAL DISTRICT RULES

Contents of Local District Rules