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September 1, 2006  
The Advisory Rules Committee  
Supreme Court of New Hampshire  
One Noble Drive  
Concord, NH 03301

By email to: [rulescomment@courts.state.nh.us](mailto:rulescomment@courts.state.nh.us)

Re: Request For Public Comment On Proposals To Amend Rules Of Professional Conduct: concern over the prohibition against in-house counsel registrants performing pro bono services

Dear Members of the Advisory Rules Committee:

Please accept this comment letter on behalf of the Association of Corporate Counsel (ACC). ACC is the in-house bar association, and represents the interests of over 20,000 members in the United States and fifty eight other countries; we have a very strong Northeast chapter, serving over 775 members and the in-house profession's interests locally.

ACC supports the adoption of the Ethics Committee's Proposed Rule of Conduct 5.5 (MJP) recommendation. These proposals will give all corporate lawyers the ability to properly serve clients working in an increasingly cross-border marketplace. The Ethics Committee has done an excellent job of reviewing the issues and bringing you a balanced, well-reasoned, and timely proposal for your adoption.

Our purpose in writing you today is to reiterate our concerns on an issue that we did not see addressed in the proposal. That issue concerns the ability of corporate counsel working in the state on a permanent basis to engage in providing pro bono legal service: we urge you to codify an MJP system that contains explicit commentary or regulatory language certifying that corporate counsel authorized to work in New Hampshire may engage in pro bono legal services.

It is our understanding that the state has a current authorization system for corporate counsel, and that with the adoption of these new rules, the state may or may not see a need to remove or revise this current system. Whatever path is taken, we strongly urge you to pro-actively authorize in-house counsel working under the state's authorization system to perform pro bono legal services. ACC believes that pro bono legal services are the professional responsibility of every lawyer. Since most pro bono work is essentially local in nature, non-locally licensed in-house counsel who will be working in New Hampshire under this rule will not find many meaningful opportunities for pro bono representation, and the state and its citizens will be deprived of the valuable services of a tremendous group of lawyers. To preclude in-house counsel from volunteering to offer pro bono assistance to the state's most needy citizens would be a waste of fine legal talent and a disservice to the public, which needs more—not less—volunteer legal service from lawyers. It is also worth noting that local legal services organizations



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especially solicit corporate legal involvement in their efforts: when corporate counsel volunteer, they often bring with them access to corporate funding of programs and the outside counsel community who will begin to understand that their increased pro bono involvement could actually be good for their business! Everyone wins.

We urge you to ensure that the state's rules allow in-house lawyers the ability to return valuable and needed services to the public. Denying in-house practitioners makes no sense since there is absolutely no empirical or rational reason to believe that their involvement in pro bono matters poses a threat to the public or the profession. Indeed, all empirical evidence shows that corporate practitioners are the least likely to be involved in any kind of malpractice or disciplinary breaches as a result of their work: they tend to volunteer through the offices of local legal services organizations, where they can work with licensed and experienced public interest specialists and be covered by their insurances. Others work through the auspices of their larger law firm programs or develop a project that is carefully staffed by a responsible department administrator.

If you have continuing concerns about opening this category of service to in-house counsel who are not locally licensed, then we suggest you revise the rule to only allow in-house counsel the ability to provide pro bono services under the auspices of or in connection with a state or locally licensed pro bono/legal services provider.

Please feel free to call upon me at 202.293.4103, ext. 318, (email: [hackett@acca.com](mailto:hackett@acca.com)) if you wish to discuss our suggestions further, or if we can be of assistance. Thank you for the opportunity to submit these comments, and again, our congratulations and appreciation for your vision in proposing the adoption of these crucial MJP reforms.

Sincerely,

A handwritten signature in black ink that reads 'Susan Hackett'.

Susan Hackett  
Senior Vice President and General Counsel