CTQ-2014-00005

Court of Appeals
of the State of New York

EKATERINA SCHOENEFELD,

Respondent,

v.

STATE OF NEW YORK, NEW YORK SUPREME COURT, APPELLATE DIVISION, THIRD JUDICIAL DEPARTMENT, COMMITTEE ON PROFESSIONAL STANDARDS OF NEW YORK SUPREME COURT, APPELLATE DIVISION, THIRD JUDICIAL DEPARTMENT AND ITS MEMBERS,

Defendants,

ERIC T. SCHNEIDERMAN, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL FOR THE STATE OF NEW YORK, ALL JUSTICES OF NEW YORK SUPREME COURT, APPELLATE DIVISION, THIRD JUDICIAL DEPARTMENT, ROBERT D. MAYBERGER, IN HIS OFFICIAL CAPACITY AS CLERK OF NEW YORK SUPREME COURT, APPELLATE DIVISION, THIRD JUDICIAL DEPARTMENT, JOHN G. RUSK, CHAIRMAN OF THE COMMITTEE ON PROFESSIONAL STANDARDS "COPS,"

Appellants.

On Question Certified by the United States Court of Appeals for the Second Circuit (11-4283-cv)

AMICI CURIAE BRIEF OF NEW YORK-LICENSED NON-RESIDENT ATTORNEYS IN SUPPORT OF RESPONDENT

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QUESTION PRESENTED FOR REVIEW

The United States Court of Appeals for the Second Circuit has certified to this Court the following question:

> Under New York Judiciary Law § 470, which mandates that a nonresident attorney maintain an "office for the transaction of law business" within the state of New York, what are the minimum requirements necessary to satisfy that mandate?

STATEMENT OF INTERESTS OF AMICI CURIAE

Amici curiae are lawyers who are admitted to practice law in New York but do not reside in New York. They include solo practitioners and those who practice in small law firms. Most amici are admitted to practice in at least one other jurisdiction in addition to New York, including California, the District of Columbia, Florida, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, and Vermont.

Amici are all lawyers adversely affected by § 470. Some amici have been unable to practice in New York, or have declined work or clients, because of the costs of maintaining an office as required by § 470. Amici also include lawyers who practice in New York but whose law practices have been burdened by the compliance costs associated with § 470. All of the amici want to use their New York law licenses, but suffer the substantial costs resulting from compliance with § 470's office requirement which mandates non-resident attorneys maintain a physical office space in New York in order to practice law in New York courts.

New York Judiciary Law § 470's office requirement puts amici at a competitive disadvantage in the New York legal market vis-à-vis resident lawyers by requiring them to pay for office space in New York or forgo economic opportunities in the state. The office requirement is particularly unreasonable for the amici who live very close to the New York border and wish to practice in New York courts without § 470's discriminatory burdens.

As New York-licensed lawyers in good standing who reside outside of the state, amici are well situated to assist this Court by bringing to light arguments that might otherwise escape the Court's attention. Together, amici believe that their insight into the proper interpretation of § 470 will assist the Court in answering the question certified by the Second Circuit.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

The question certified to this Court is the proper interpretation of the phrase "office for the transaction of law business" in New York Judiciary Law § 470. The State asserts that the phrase "office for the transaction of law business" means merely an address at which to receive legal service; in contrast, respondent asserts the phrase contemplates a physical location where legal work is regularly conducted. Amici respectfully submit the latter meaning is correct.

Under governing rules of statutory construction, the Court must interpret a statute to effectuate the intent of the legislature, which is best indicated by the

statutory text itself. Therefore, the Court must first look to the plain meaning of the statute. The plain meaning of the term "office" is a physical location where work is conducted. The Court also must avoid, if possible, any construction that renders a statute's language inoperative, void, insignificant, or superfluous. The State's interpretation of § 470 is at odds with this principle because its interpretation makes the qualifying language "for the transaction of law business" superfluous.

Even if the Court were not persuaded that the meaning of § 470 is unambiguous, New York courts considering the meaning and requirements of § 470 have consistently found that the statute requires that an "office for the transaction of law business" possess the normal characteristics of a legal office. Moreover, other states around the country have also interpreted the term "office" in similar statutes to mean an operative physical location.

Finally, the undersigned amici – all non-resident lawyers barred in New York – unanimously have understood § 470 to require them either to maintain a physical office space in New York, complete with staff, files and supplies, or to forgo the benefits of practicing in New York courts. Although some amici chose to bear these discriminatory costs, others decided the expense of maintaining such an office would have swamped any potential profit, and thus are effectively barred from practicing in New York courts at all.

Statutory interpretation, legislative history, and common sense should all persuade the Court to reject New York's interpretation of § 470. Amici urge this Court to adopt the district court's interpretation of the term "office," as a physical location, and hold that the minimum requirement necessary to satisfy § 470's office mandate is to secure an operational physical space where work is regularly conducted. Amici urge this reading because such a holding would not only be consistent with the plain meaning of the statute, but would also result in a clear and unequivocal presentation of the question of the constitutionality of § 470.

ARGUMENT

I. Section 470 Should be Interpreted According to its Plain Meaning, Which Contemplates a Physical Office Location.

Courts interpret a statute to effectuate the intent of the Legislature. *People v. Finnegan*, 85 N.Y.2d 53, 58 (1995). As the clearest indicator of legislative intent is the statutory text itself, the starting point for statutory interpretation must always be the language of the statute. *Majewski v. Broadalbin-Perth Cent. Sch. Dist.*, 91 N.Y.2d 577, 583 (1998). The language of a statute is generally interpreted according to its natural and most obvious sense without resorting to artificial or forced construction. *See* 97 N.Y. Jur. 2d Statutes § 110. When the statutory language "is clear and unambiguous, it should be construed so as to give effect to the plain meaning of [the] words used." *Finnegan*, 85 N.Y.2d at 58 (internal quotations omitted).

When the meaning of a statute is plain, no further duty of interpretation arises. *Caminetti v. United States*, 242 U.S. 470, 485 (1917). In *Caminetti*, the United States Supreme Court explained that legislatures intend to use English words in their ordinary senses when writing statutes. *Caminetti*, 242 U.S. at 485-86. The Court reasoned, "if [the language in the statute] is plain . . . the sole function of the courts is to enforce it according to its terms." *Id*. at 485. The Court ultimately warned that if a statute's language was plain and clear, "the duty of interpretation does not arise, and the rules which are to aid doubtful meanings need no discussion." *Id*. Section 470's language is plain and clear, therefore, further statutory interpretation is unnecessary and improper.

As the Second Circuit properly concluded, if §470 is read according to its plain meaning, it requires non-resident attorneys to maintain a physical and operational law office. *See Schoenefeld v. New York*, 748 F.3d 464, 469 (2d Cir 2014). Moreover, such a reading of the term "office," renders meaningful, rather than superflous, the use by the Legislature in § 470 of the phrase "for the transaction of law business." In New York, the practice of law has been described to include giving legal advice, drafting legal documents, and holding oneself out as authorized to practice law in the state. *See* 6A N.Y. Jur. 2d Attorneys at Law § 44. Giving legal advice and drafting legal documents are tasks that require a functional administrative space to be performed effectively (*e.g.*, desks and papers to draft

documents on, printers to print documents out, chairs or telephones for clients whom the lawyer is advising). A functional administrative space requires a physical location; it cannot be only an address where legal papers are received. In sum, an ordinary understanding of where giving legal advice and drafting legal documents would take place supports the interpretation that the term "office" means a physical location.

A. The Plain Meaning of "Office"

What is the plain meaning of the word "office"? According to Black's Law Dictionary, office means "a place where business is conducted or services are performed." *Black's Law Dictionary* 1254-55 (10th ed. 2014). Black's Law Dictionary also defines "office expense" as equivalent to "overhead," which it defines as "business expenses (such as rent, utilities, or support-staff salaries) that cannot be allocated to a particular product or service; fixed or ordinary operating costs." *Id*. at 1278. By implication from the examples used in this definition, "office expenses" are monetary payments used to maintain a physical location, complete with supplies and staff. In the American Heritage Dictionary, office means "a place in which business, clerical, or professional activities are conducted; the administrative personnel, executives, or staff working in such a place." *The American Heritage Dictionary of the English Language* 1255 (3rd ed. 1992). On Merriam-Webster.com, an office is defined as "a building or room in which people

work at desks doing business or professional activities; a room with a desk where a particular person works." Merriam Webster, http://www.merriam-webster.com/dictionary/office (last visited October 23, 2014). In each definition there is mention of "a place," "rooms," or "buildings." This reflects a common understanding of office as being more than just an address, but a physical space that accommodates individuals who are actively working. An address to receive service does not necessarily possess the physical space necessary to fulfill this function. The definitions also use the plural terms "services" and "activities" and, thereby, contemplate that an office is a multi-purpose space that accommodates various work-related functions. An address where one can only receive legal papers cannot possibly be an "office" in this sense as it serves only that single function. Therefore, the only appropriate interpretation of § 470 would be to construe the term "office" according to its plain meaning, which is a physical location where various business activities are conducted.

B. The Popular Meaning of "Office"

Words are given literal meanings and definitions; however, words can sometimes simultaneously hold local, cultural, and popular meanings, as well. In some cases, the definitional meanings of words can even conflict with their popular interpretation and use. Here, though, the popular understanding and use of the word "office" is exactly consistent with its dictionary definition and, thus,

reinforces the conclusion that an office is a physical location where various work activities are conducted.

Consistent with the dictionary definition of the term "office," the popular usage of the term indicates that an office is a physical location where work is conducted. Phrases such as "go to the principal's office," "post office," and "office meeting" all rely on the assumption that an office is a physical location. And phrases such as "office party," "office romance," and "office gossip" all rely on the assumption that the office is a place where multiple people regularly work. Common usage does not, however, support the interpretation that an office is just an address where one receives papers.

Taken to its logical conclusion, the State's interpretation of § 470 yields absurd results. If it were up to the State, the term "office meeting" would refer to the mere appearance of a single attorney at the address at which he or she receives legal papers; what such a meeting would entail is unclear. It is difficult to give a power point presentation without space to accommodate the projector, the meeting attendees, or even the host.

One could also imagine that if people were to visit a "post office" under the State's interpretation, there would be many upset customers. If an "office" was nothing more than an address where one could receive process, then it stands to reason that a post office would have no employees, no office supplies to help tape

packages or weigh boxes, and no actual space to provide services to its customers. According to the State, a post office would be nothing more than a mailbox. Such an interpretation would be unreasonable and would conflict with the popular and common understanding of the term "office."

Other popular uses of the term "office" support the interpretation that an office is a physical location where various types of business are conducted. For example, TV shows like "The Office" depict a physical location filled with employees who travel to that space to work with one another. In retail, there are stores like "Office Depot" that sell items that are stored in a physical location and used to perform various work activities — like desks, phones, chairs, paper, computers, etc.

Results from a Google Image search for the word "office" returns photographs of physical locations, with desks, chairs, and in most pictures, people working together. Associated with a Google search for an "office" are additional result suggestions for the terms "workers," "buildings," and "cubicles." Searching through stock photography pictures further confirms the popular understanding of an "office" as a physical place where there are desks and an established personnel

presence.[1] Though not determinative standing alone, these examples confirm that the generally accepted meaning of the term "office" is consistently linked to a physical location in which business activities are regularly conducted.

Both the popular and literal meaning of the term "office" confirm that the only rational interpretation of § 470's office mandate is that it requires a non-resident attorney to maintain a physical location where work could be regularly conducted. It would be unreasonable for the Court to adopt any other definition.

II. The State's Interpretation of § 470 Creates Surplusage and Should be Disregarded.

A basic principle of statutory interpretation is that courts should give effect to every word in a statute, avoiding, if possible, any construction that would render the statutory language inoperative, void, insignificant, or superfluous. *Astoria Fed. Sav. & Loan Ass'n v. Solimino*, 501 U.S. 104, 112 (1991); *see also*, *Corley v. United States*, 556 U.S. 303, 314 (2009). The State's interpretation of § 470 conflicts with this principle because it gives meaning only to the term "office" and renders the phrase "for the transaction of law business" meaningless. The State's interpretation thus creates surplusage and should be disregarded.

[1] *See*, *e.g.*, www.istockphoto.com; www.shutterstock.com; www.bigstockphoto.com (displaying office spaces with desks, work spread out on desk tops, and individuals working together).

The State argues that, in § 470, the word "office" means merely an address at which one may receive service. This definition is only partially correct, as it is inherent in the common understanding of office that, among other various characteristics, an office possesses an address where legal papers may be served. If the Court accepts the State's interpretation of § 470, and that the term "office" means only "an address for receiving service," however, there would be no need for the further descriptive phrase "for the transaction of law business" in the statute. A hypothetical version of § 470 drafted according to New York's interpretation of term "office" would result in clear guidance, as the statute would require:

> A person, regularly admitted to practice as an attorney and counsellor, in the courts of record of this state, whose *address for receiving service* is within the state, may practice as such attorney or counsellor, although he resides in an adjoining state.

A statute drafted in this manner would unambiguously convey the Legislature's intent to limit the function of the office requirement to that of an address for receiving service. However § 470 does not only use "office," but instead follows office with "for the transaction of law business." Thus, the phrase "for the transaction of law business" must reasonably be something other than a repetition of the "office" requirement. Because the State's interpretation leaves the phrase "for the transaction of law business" meaningless, its interpretation of § 470 must be disregarded. In contrast to the State, the District Court's interpretation gives

both terms separate and distinct, but complementary, meanings. Thus, the District Court's interpretation of § 470, which requires non-residents to maintain a physical location for law practice, is the correct and only reasonable reading of the statute that prevents superfluous text. *See Schoenefeld v. New York*, 907 F. Supp. 2d 252, 261 (N.D.N.Y. 2011).

III. The State's Interpretation of § 470 Contradicts New York Case Law.

This State's courts have consistently found that an "office for the transaction of law business," as required under Judiciary Law § 470, must possess the normal characteristics of a legal office. Those characteristics have included such factors as physical space, staff, telephone service, and the lawyer's routine presence. These features of a traditional legal office promote what the courts have seen as the purpose of § 470, which is broader than simply "suitability of the office for service of legal papers," as the State asserts. Appellant's Br. 11. As one New York court explained, "[t]he rationale for the requirement of a local office for the practice of law here is to allow the State to exercise its police power over those who would counsel and appear in its courts … and to facilitate the service of papers, the use of the remedy of attachment … and to allow Bar admission authorities an opportunity to observe and evaluate an applicant's character…." *Austria v. Shaw*, 542 N.Y.S.2d 505, 506 (Sup. Ct., N.Y. County 1989) (internal citations omitted). Because the purpose of § 470 is broader than simply to facilitate the service of papers, courts

consistently require more than the State suggests is necessary to comply with the office requirement.

In each of the cases cited in the State's brief, New York courts have interpreted § 470 to require a non-resident lawyer to maintain a physical office location in New York. If facilitating service of papers were the only purpose of § 470, as the State argues, many of the factors New York courts routinely consider when they determine compliance with § 470 would be irrelevant. In *Austria*, the court found the requirements of § 470 were met by an attorney who had rented desk space in New York, noting that "telephone messages or calls to the attorney, were answered and forwarded to the attorney" along with his mail. *Id*. Another non-resident attorney complied with § 470 through the use of office space provided by one of his clients. *Miller v. Corbett*, 676 N.Y.S.2d 770, 772-73 (Yonkers City Ct. 1998). The court cited the lawyer's routine presence at the office and his designated desk and telephone service at the office as evidence that he maintained a "bona fide office" in New York. *Id*. If all § 470 required were what is necessary to facilitate service of papers, the courts would have had no reason to consider factors such as telephone service, the lawyer's routine presence in the office, and desk space. None of these features are relevant to service. These cases confirm that New York courts have consistently looked for the traditional indicia of a legal

office—rather than mere suitability for service of legal papers—to evaluate § 470 compliance.

Conversely, courts have consistently held that non-resident lawyers violate § 470 when they fail to maintain something akin to a traditional law office and maintain nothing more than a mailing address in New York. For example, a lawyer violated § 470 when he had a mailing address in New York but was not present there, did not have telephone service there, and did not have employees there. *Marte v. Graber*, 17 Misc. 3d 1139(A), 2007 N.Y. Slip Op. 52348(U) (Civ. Ct., N.Y. County 2007); *see also Matter of Larsen*, 587 N.Y.S.2d 39, 43 (2nd Dept 1992) (finding a violation of § 470 when an attorney had a post office box address). In another case, the court found that a lawyer who used an assistant's home as his New York address violated § 470, because the "record [did] not adequately disclose the relationship between [the attorney] and the assistant or that mail and telephone messages could be sent to the purported office with any assurance that [the attorney] would receive them." *Matter of Haas*, N.Y.S.2d 479, 479 (3rd Dept 1997) (per curiam). Even an attorney who had a physical location in the form of a small room in the basement of a restaurant failed to comply with § 470 because the court found it "improbable" that he conducted legal business there, when he had no employees there, reported no New York income, did not have his name posted on the premises, and had not instructed the restaurant staff to

accept legal papers. *Lichtenstein v. Emerson*, 674 N.Y.S.2d 298, 298 (1st Dept 1998). In each of these cases, the courts evaluated compliance with § 470 based on factors that included staff, income, the lawyer's physical presence, telephone service, and signage. These office features are generally extraneous to the service of legal papers. The fact that courts looked at these factors to evaluate whether a lawyer had maintained "an office" indicates that New York courts do not consider service to be the only purpose of § 470's office requirement.

In its motion for summary judgment before the United States District Court, the State cited a case that even declared § 470 served, in part, to impose on out-of-state lawyers "the expenses of a New York location including the payment of local taxes." *White River Paper Co., Ltd. v. Ashmont Tissue, Inc.*, 441 N.Y.S.2d 960, 963 (Civ. Ct., Bronx County 1981); Def.'s Mot. S.J. 10. To spare that expense, the court argued, would give an unfair advantage to out-of-state lawyers. *Id*. The court in *White River Paper* also cited a need for the lawyer himself to be physically present so that "[m]eetings between disputants may be facilitated and telephonic communication may be made more easily and less expensively." *Id*. In the view of that court, simply having an address for service of process would not impose the "expenses of a New York location" on non-resident lawyers, nor would it facilitate meetings or telephonic communication. Thus, consistent with all of the other cases the State cites, this case shows that New York courts considered service of papers

just one of several purposes of § 470, and that fulfilling the overall purpose of § 470 required non-resident lawyers to also have the basics required for a functional law office.

The State is correct that courts have found that § 470 is satisfied when a non-resident attorney has a more limited professional relationship to a physical New York office, such as an "of counsel" relationship with a firm possessing a New York office. *Matter of Tatko v. McCarthy*, 699 N.Y.S.2d 509, 509 (3d Dept 1999); Appellant's Br. 11. Other cases have found that an agreement to share a physical location is also acceptable. *Keenan v. Mitsubishi Estate, N.Y.*, 644 N.Y.S.2d 241, 241-42 (1st Dept 1996); *Matter of Scarsella*, 600 N.Y.S.2d 256, 258 (2d Dept 1993). In every case the State cites, however, there was a physical location that fits the common understanding of a lawyer's office, complete with a desk, a telephone, and staff. The lawyer's relationship to that physical office fulfilled his obligations under § 470.

In short, it would be inconsistent with New York case law to say that any arrangement suitable for service of papers is enough for a non-resident lawyer to comply with § 470's office requirement. Instead, New York courts have insisted that an "office for the transaction of law business" must be a physical office location possessing the usual trappings of such an office. Acting on this consistent interpretation of the requirements under § 470, some of the undersigned amici have

acquired a physical office location in New York and paid for conference space, dedicated telephone lines, file storage, mail and messaging services, or staff in order to comply with the statute—all at considerable cost. None of the undersigned amici has ever understood § 470 to require only an address to receive service.

IV. Other States Have Interpreted the Term "Office" to Mean an Operational Physical Location.

Historically, many states have passed statutory schemes that govern the practice of law by requiring certain attorneys to maintain an office in-state.[2] New York is an example. Through Judiciary Law §470, New York requires non-resident, barred attorneys to maintain a physical office in-state in order to practice in New York courts. Like Judiciary Law §470, all of the statutes and rules discussed below use the term "office." And in each, the term "office" has been interpreted by state courts to mean a physical office location where a variety of work activities are conducted.

Prior to the amendment of the rule, lawyers who wanted to be admitted to the bar without examination in Iowa were required to prove their intent to open an office for the practice of law. *Matter of Arthur*, 415 N.W.2d 168, 169-70 (Iowa 1987). Just purchasing an office space was insufficient to satisfy this requirement;

[2] These other state statutes and court rules differ from New York Judiciary Law § 470 because they do not necessarily differentiate between non-resident and resident barred attorneys. Further, not all of these other statutes remain in effect. The interpretation of the term "office" in these statutes, however, is still instructive in light of this Court's statutory interpretation task.

instead attorneys had to have an "ongoing and substantial physical presence," and not merely a "mail drop." *Id*. (holding firm's use of an office space in a portion of another law office, which held no files and was not listed in the telephone directory, failed to qualify as an "office"). The court in *Arthur* thus reasonably interpreted "office" to mean "a place where an attorney practices, by being there personally a substantial and scheduled portion of time." *Id*.

Delaware provides another example. Delaware Supreme Court rules require that all papers filed with that court must be signed by attorneys who are active members of the Bar and who maintain an office in Delaware for the practice of law. Del. Sup. Ct. R. 12 (a). The rules define an "office for the practice of law" as:

> "[A] bona fide office maintained in this State for the practice of law in which the attorney practices by being there a substantial and scheduled portion of time during ordinary business hours in the traditional work week … A bona fide office is more than a mail drop, a summer home which is unattended during a substantial portion of the year or an answering, telephone forwarding, secretarial or similar service."

Del. Sup. Ct. R. 12 (d). It is thus clear that the Delaware Supreme Court believes that an office must be an operative physical location where legal work is regularly conducted.

Louisiana rules once required Eastern District of Louisiana bar applicants to reside or maintain an office in the state. *Frazier v. Heebe*, 482 U.S. 641, 643 (1987). Louisiana justified the office requirement as necessary for the efficient

administration of justice and the increased availability of an attorney to the court *Id*. at 644. The district court also noted that the office requirement would increase the availability of non-resident attorneys because office profitability was dependent upon the attorney practicing in the office with "some regularity." *Matter of Frazier*, 594 F.Supp.1173, 1184 n.13 (E.D. La. 1984). The district court justifiably assumed that a regularly attended, operational office would generate profits. In contrast, no one would reasonably believe that a mail drop would generate the same level of profits as a regularly attended, operational office. Although the Supreme Court eventually struck down the Louisiana rule, the district court's opinion highlighted Louisiana's reasonable interpretation of the term "office" as being an operative physical location where an attorney regularly conducts business.

New Jersey previously required attorneys who practice law in the state to maintain a bona fide office, regardless of where they were domiciled. *See* N.J. Ct. R. 1:21-1 (1982); *Tolchin v. Supreme Court of the State of N.J*., 111 F.3d 1099, 1102 (3rd Cir. 1997). The United States Court of Appeals for the Third Circuit described the requirement as:

> "[M]ore than a 'mail drop,' a summer home that is unattended during a substantial portion of the year, an answering service unrelated to a place where business is conducted, or a place where on-site agent of the attorney receives and transmits message only… It is a place where clients are met, files are kept, the telephone is answered, mail is received and the attorney or a responsible person acting on the attorney's behalf can be reached in person and by telephone during normal business hours to answer questions posed

> by the courts, clients or adversaries and to ensure that competent advice from the attorney can be obtained within a reasonable period of time."

Id. at 1103. New Jersey clearly expected an office to be an operative physical location where legal work was regularly conducted. However, after review and recommendation by the New Jersey State Bar's Joint Subcommittee of Solo and Small Firm Section, and the Professional Responsibility and Unlawful Practice Committee, the bona fide office requirement was eliminated. The rule now provides that:

> "An attorney need not maintain a fixed physical location for the practice of law, but must structure his or her practice in such a manner as to assure . . . prompt and reliable communication with and accessibility by clients, other counsel, and judicial and administrative tribunals before which the attorney may practice, provided that an attorney must designate one or more fixed physical locations where client files and the attorney's business and financial records may be inspected on short notice by duly authorized regulatory authorities, where mail or hand-deliveries may be made and promptly received, and where process may be served on the attorney for all actions, including disciplinary actions, that may arise out of the practice of law and activities related thereto."

See N.J. Ct. R. 1:21-1 (a) (1) (2012). New Jersey's amendment to Rule 1:21 (a) (1) essentially changed the office requirement to a requirement that a lawyer have an address to receive legal service. This change underscores the idea that if the New York Legislature intended § 470's requirement for an "office for the transaction of law" to mean no more than an address where legal process may be served, it could

easily amend the statute to provide for such, instead of straining to interpret § 470 in an unreasonable way.

The State's interpretation of § 470 contradicts the consistent interpretation of the term "office" as used by many other states who also use the term in the laws governing the practice of law in that state. Although states have passed different rules that govern lawyer practices, the interpretation of the term "office" within those rules is consistent. Each state found that there must be a physical location to satisfy an office requirement. Each state also found that just having a physical space is insufficient, because the space should be an operating location where attorneys are practicing regularly. New York's interpretation of § 470 would require none of these things. New York's interpretation of § 470 fails to recognize that a location serving as an address for receipt of process might fail to provide sufficient space or accommodations for the regular practice of law. Thus, New York's interpretation of § 470 is wholly out-of-step with the consistent interpretation by other states, which dictates that the term "office" refers to a physical location that can accommodate all aspects of the practice of law. The consistent interpretation by other states of similar usages of the term "office" as a physical location where one conducts business should persuade this court that the State's proferred interpretation is unreasonable and that the interpretation offered by amici is correct. This Court should likewise adopt such a construction here.

CONCLUSION

Judiciary Law § 470 can only be read to require a physical office suitable for the normal activities of a legal practice. New York courts have consistently espoused such a view concerning § 470. Indeed, that is the unanimous understanding of the undersigned amici. For these reasons, amici ask this Court to hold that § 470 means what it has always been assumed to mean: that non-resident lawyers seeking to practice in New York must maintain a physical location matching the traditional concept of law office.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on January 21, 2015, I served three copies of *Amici Curiae Brief of New York-Licensed Non-Resident Attorneys in Support of Respondent* via the Court's electronic filing system and US Mail to:

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