

November 8, 2023

By Email

The Honorable Kathy Hochul
New York State Governor
Executive Chamber, New York State Capitol Building
Albany, NY 12224

**Re: Repealing Jud. Law §470 Increases Access to Justice for All New Yorkers:
Legal Representation in New York Should Expand, Not Contract**

Dear Governor Hochul:

The New York State and New York City Bar Associations urge you to sign **A.2218/S.3261** into law and repeal Judiciary Law §470, which currently requires nonresident New York-barred lawyers to maintain a physical office in New York in order to provide legal services in New York, for the following reasons:

- Judiciary Law §470 is antiquated; the reason for its enactment – ensuring availability for the service of court papers – no longer exists.¹
- Judiciary Law §470 was interpreted by the Court of Appeals to require a physical office, resulting in the closure of virtual offices. This has a negative impact on the lawyer pool in New York and access to justice.
- The delivery of legal services has evolved, and New York needs to keep pace. If this bill is enacted, small and solo practitioners can choose to work remotely to avoid the burdensome cost of physical office overhead, which keeps costs down and provides more equitable access to justice for New Yorkers who need legal representation.
- Working remotely provides flexibility to accept cases from underserved populations, at little or reduced cost, or pro bono, especially in upstate rural areas.²

¹ See City Bar report supporting enactment of A.2218/S.3261 (March 2023), [2020732-JudiciaryLaw470Repeal.pdf](https://www.nycbar.org/wp-content/uploads/2020/07/2020732-JudiciaryLaw470Repeal.pdf) (All websites last accessed on Nov. 8, 2023) at 2.

² A survey of rural practitioners in New York State conducted by the Albany Law Government Law Center (*see* <https://www.albanylaw.edu/sites/default/files/centers/government-law-center/the-rural-law-initiative/Documents/rural-law-practice-in-new-york-state.pdf>) concluded that 26/44 rural counties had only 1 attorney or less for every 600 residents and nearly 10 counties with only 1 attorney for every 1000 residents. *See also* NYS Permanent Commission on Access to Justice, Report to the Chief Judge of New York State, https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/22_ATJ-Comission_Report.pdf (November 2022) (“Attorney Shortage in Rural Areas” -- “...there are limited numbers of lawyers or legal services organizations available to serve those individuals, and it is extraordinarily difficult to recruit lawyers to serve in rural communities;”...“Innovative pro bono initiatives that connect lawyers practicing in New York’s urban centers with rural legal services providers can be a valuable way to expand access to effective assistance in rural areas.”) at 50-51.

- This modernization of the Judiciary Law may result in a financial benefit to the State. Lawyers' income earned in New York will continue to be taxable in New York, and this change could lead to more lawyers practicing in the State, resulting in greater revenues.
- Attorney registration fees in New York will increase. Portions of the [approximately \\$60M fees raised per biennial cycle](#) are [earmarked](#) for the Lawyers' Fund for Client Protection, the Indigent Legal Services Fund, and the Legal Services Assistance Fund, all of which directly benefit the public.
- Making New York a more attractive state for attorneys to practice will increase commercial and business transactions venued in New York and increase the related economic benefit of such business activity in our state.
- By way of analogy, New Jersey's removal of the physical office requirement had little or no impact on the number of in-state law offices.³

In sum, removing the physical office requirement in New York will lower attorney costs, enhance access to justice, expand services offered and promote access to justice as a meaningful career choice.

For these reasons, we urge you to sign A.2218/S.3261 into law. If you would like to discuss the bill further, please contact David P. Miranda, New York State Bar Association General Counsel, at dmiranda@nysba.org or (518)487-5524.

Respectfully,

Richard C. Lewis
President, New York State Bar Association

Susan J. Kohlmann
President, New York City Bar Association

Cc: Elizabeth Fine, Counsel to the Governor (*by email*)

³ New Jersey reports on attorney registration and office data in its State of the Attorney Disciplinary System Reports. 28,937 NJ law offices reported they had physical locations in the state in 2013, the year the physical office requirement was lifted. See https://www.civiljusticenj.org/wp-content/uploads/2014/07/2013_AttorneyDisciplinaryReport.pdf, There were 26,809 offices in NJ as of the end of 2021. See <https://www.njcourts.gov/sites/default/files/attorneys/office-attorney-ethics/2021oaeannualrpt.pdf>. That number did not change in 2022. See <https://www.njcourts.gov/sites/default/files/attorneys/office-of-attorney-ethics/oaereport2022.pdf>. These numbers demonstrate a very minimal impact. It is also worth noting that attorney admissions have increased steadily in NJ since 2013.