

1 **ABA Model Rule on Pro Hac Vice Admission**

2 Adopted August 12, 2002

3
4 **I. Admission In Pending Litigation Before A Court Or Agency**

5 **A. Definitions**

6 1. An “out-of-state” lawyer is a person not admitted to practice law in
7 this state but who is admitted in another state or territory of the United States or of
8 the District of Columbia and not disbarred or suspended from practice in any
9 jurisdiction.

10 2. An out-of-state lawyer is “eligible” for admission pro hac vice if that
11 lawyer:

12 a. lawfully practices solely on behalf of the lawyer’s employer and its
13 commonly owned organizational affiliates, regardless of where such lawyer
14 may reside or work; or

15 b. neither resides nor is regularly employed at an office in this state;
16 or

17 c. resides in this state but (i) lawfully practices from offices in one or
18 more other states and (ii) practices no more than temporarily in this state,
19 whether pursuant to admission pro hac vice or in other lawful ways.

20 3. A “client” is a person or entity for whom the out-of-state lawyer has
21 rendered services or by whom the lawyer has been retained prior to the lawyer’s
22 performance of services in this state.

23 4. An “alternative dispute resolution” (“ADR”) proceeding includes all
24 types of arbitration or mediation, and all other forms of alternative dispute
25 resolution, whether arranged by the parties or otherwise.

26 5. “This state” refers to [state or other jurisdiction promulgating this
27 rule]. This Rule does not govern proceedings before a federal court or federal
28 agency located in this state unless that body adopts or incorporates this Rule.

29 **B. Authority of Court or Agency To Permit Appearance By Out-of-State**
30 **Lawyer**

31 1. **Court Proceeding.** A court of this state may, in its discretion, admit an
32 eligible out-of-state lawyer retained to appear in a particular proceeding pending
33 before such court to appear pro hac vice as counsel in that proceeding.

2. Administrative Agency Proceeding. If practice before an agency of this state is limited to lawyers, the agency may, using the same standards and procedures as a court, admit an eligible out-of-state lawyer who has been retained to appear in a particular agency proceeding to appear as counsel in that proceeding pro hac vice.

C. In-State Lawyer's Duties. When an out-of-state lawyer appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the in-state lawyer, or in an advisory or consultative role, the in-state lawyer who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the in-state lawyer to advise the client of the in-state lawyer's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the out-of-state lawyer.

D. Application Procedure

1. Verified Application. An eligible out-of-state lawyer seeking to appear in a proceeding pending in this state as counsel pro hac vice shall file a verified application with the court where the litigation is filed. The application shall be served on all parties who have appeared in the case and the [lawyer regulatory authority]. The application shall include proof of service. The court has the discretion to grant or deny the application summarily if there is no opposition.

2. Objection to Application. he [lawyer regulatory authority] or a party to the proceeding may file an objection to the application or seek the court's imposition of conditions to its being granted. The [lawyer regulatory authority] or objecting party must file with its objection a verified affidavit containing or describing information establishing a factual basis for the objection. The [lawyer regulatory authority] or objecting party may seek denial of the application or modification of it. If the application has already been granted, the [lawyer regulatory authority] or objecting party may move that the pro hac vice admission be withdrawn.

3. Standard for Admission and Revocation of Admission. The courts and agencies of this state have discretion as to whether to grant applications for admission pro hac vice. An application ordinarily should be granted unless the court or agency finds reason to believe that such admission:

a. may be detrimental to the prompt, fair and efficient administration of justice,

b. may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent,

c. one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk, or

d. the applicant has engaged in such frequent appearances as to constitute regular practice in this state.

4. Revocation of Admission. Admission to appear as counsel pro hac vice in a proceeding may be revoked for any of the reasons listed in Section I.D.3 above.

E. Application

1. **Required Information.** An application shall state the information listed on Appendix A to this rule. The applicant may also include any other matters supporting admission pro hac vice.

2. **Application Fee.** An applicant for permission to appear as counsel pro hac vice under this Rule shall pay a non-refundable fee as set by the [lawyer regulatory authority] at the time of filing the application.

3. **Exemption for Pro Bono Representation.** An applicant shall not be required to pay the fee established by I.E.2 above if the applicant will not charge an attorney fee to the client(s) and is:

a. employed or associated with a pro bono project or nonprofit legal services organization in a civil case involving the client(s) of such programs: or

b. involved in a criminal case or a habeas proceeding for an indigent defendant.

F. Authority of the [Lawyer Regulatory Authority] and Court: Application of Ethical Rules, Discipline, Contempt, and Sanctions

1. **Authority Over Out-of-State Lawyer and Applicant.**

a. During pendency of an application for admission pro hac vice and upon the granting of such application, an out-of-state lawyer submits to the authority of the courts and the [lawyer regulatory authority] of this state for all conduct relating in any way to the proceeding in which the out-of-state lawyer seeks to appear. The applicant or out-of-state lawyer who has obtained pro hac vice admission in a proceeding submits to this authority for all that lawyer's conduct (i) within the state while the proceeding is pending or (ii) arising out of or relating to the application or the proceeding. An applicant or out-of-state lawyer who has pro hac vice authority for a proceeding may be disciplined in the same manner as an in-state lawyer.

b. The court's and [lawyer regulatory authority's] authority includes, without limitation, the court's and [lawyer regulatory authority's] rules of professional conduct, rules of discipline, contempt and sanctions orders, local court rules, and court policies and procedures.

2. **Familiarity With Rules.** An applicant shall become familiar with the rules of professional conduct, rules of discipline of the [lawyer regulatory authority], local court rules, and policies and procedures of the court before which the applicant seeks to practice.

II. Out-of-State Proceedings, Potential In-State and Out-of-State Proceedings, and All ADR

A. In-State Ancillary Proceeding Related to Pending Out-of-State Proceeding. In connection with proceedings pending outside this state, an out-of-state lawyer admitted to appear in that proceeding may render in this state legal services regarding or in aid of such proceeding.

B. Consultation by Out-of-State Lawyer

1. **Consultation with In-State Lawyer.** An out-of-state lawyer may consult in this state with an in-state lawyer concerning the in-state's lawyer's client's pending or potential proceeding in this state.

2. **Consultation with Potential Client.** At the request of a person in this state contemplating a proceeding or involved in a pending proceeding, irrespective

of where the proceeding is located, an out-of-state lawyer may consult in this state with that person about that person's possible retention of the out-of-state lawyer in connection with the proceeding.

C. Preparation for In-State Proceeding. On behalf of a client in this state or elsewhere, the out-of-state lawyer may render legal services in this state in preparation for a potential proceeding to be filed in this state, provided that the out-of-state lawyer reasonably believes he is eligible for admission pro hac vice in this state.

D. Preparation for Out-of-State Proceeding. In connection with a potential proceeding to be filed outside this state, an out-of-state lawyer may render legal services in this state for a client or potential client located in this state, provided that the out-of-state lawyer is admitted or reasonably believes the lawyer is eligible for admission generally or pro hac vice in the jurisdiction where the proceeding is anticipated to be filed.

E. Services Rendered Outside This State for In-State Client. An out-of-state lawyer may render legal services while the lawyer is physically outside this state when requested by a client located within this state in connection with a potential or pending proceeding filed in or outside this state.

F. Alternative Dispute Resolution ("ADR") Procedures. An out-of-state lawyer may render legal services to prepare for and participate in an ADR procedure regardless of where the ADR procedure is expected to take or actually takes place.

G. No Solicitation. An out-of-state lawyer rendering services in this state in compliance with this Rule or here for other reasons is not authorized by anything in this rule to hold out to the public or otherwise represent that the lawyer is admitted to practice in this jurisdiction. Nothing in this Rule authorizes out-of-state lawyers to solicit, advertise, or otherwise hold themselves out in publications as available to assist in litigation in this state.

H. Temporary Practice. An out-of-state lawyer will only be eligible for admission pro hac vice or to practice in another lawful way only on a temporary basis.

I. Authorized Services. The foregoing services may be undertaken by the out-of-state lawyer in connection with a potential proceeding in which the lawyer reasonably expects to be admitted pro hac vice, even if ultimately no proceeding is filed or if pro hac vice admission is denied.

APPENDIX A

The out-of-state lawyer application shall include:

1. the applicant's residence and business address;
2. the name, address and phone number of each client sought to be represented;
3. the courts before which applicant has been admitted to practice and the respective period(s) of admission;
4. whether the applicant (a) has been denied admission pro hac vice in this state, (b) had admission pro hac vice revoked in this state, or (c) has otherwise formally been disciplined or sanctioned by any court in this state. If so, specify the nature of the allegations; the name of the authority bringing such proceedings; the caption of the proceedings, the date filed, and what

findings were made and what action was taken in connection with those proceedings;

5. whether any formal, written disciplinary proceeding has ever been brought against the applicant by a disciplinary authority in any other jurisdiction within the last five (5) years and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;
6. whether the applicant has been held formally in contempt or otherwise sanctioned by any court in a written order in the last five (5) years for disobedience to its rules or orders, and, if so: the nature of the allegations; the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings (a copy of the written order or transcript of the oral rulings shall be attached to the application);
7. the name and address of each court or agency and a full identification of each proceeding in which the applicant has filed an application to appear pro hac vice in this state within the preceding two years; the date of each application; and the outcome of the application;
8. an averment as to the applicant's familiarity with the rules of professional conduct, rules of discipline of the [lawyer regulatory authority], local rules and court procedures of the court before which the applicant seeks to practice; and
9. the name, address, telephone number and bar number of an active member in good standing of the bar of this state who will sponsor the applicant's pro hac vice request. The bar member shall appear of record together with the out-of-state lawyer.
10. **Optional:** the applicant's prior or continuing representation in other matters of one or more of the clients the applicant proposes to represent and any relationship between such other matter(s) and the proceeding for which applicant seeks admission.
11. **Optional:** any special experience, expertise, or other factor deemed to make it particularly desirable that the applicant be permitted to represent the client(s) the applicant proposes to represent in the particular cause.