

**FILED**

June 12, 2020

**OFFICE OF  
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8009

**ORDER ESTABLISHING PUBLIC COMMENT PERIOD AND  
SCHEDULING HEARING ON PROPOSED AMENDMENTS TO  
RULE 5 OF THE GENERAL RULES OF PRACTICE**

The Legal Services Advisory Committee (LSAC) filed a petition on January 13, 2020, seeking amendments to Rule 5 of the General Rules of Practice. Specifically, LSAC's petition asks the court to amend Rule 5 by adopting a fee and registration process for out-of-state lawyers who seek pro hac vice admission to appear in Minnesota state courts. The pro hac vice fee would provide financial resources to support civil legal aid programs, and would establish an administrative process for filing, reviewing, and resolving those motions. A copy of LSAC's petition is attached to this order.

We referred LSAC's petition to the Advisory Committee on the General Rules of Practice. The committee's report and recommendations were filed on May 27, 2020. The committee considered amendments to Rule 5 to address the fee and application processing requirements. Specifically, the committee recommends amendments to and new provisions in Rule 5 that would establish an application process with the State Board of Law Examiners, accompanied by a fee, followed by a motion made to the district court before which the out-of-state lawyer seeks to appear. A copy of the Advisory Committee's report, including the proposed amendments to Rule 5, is attached to this order.

The court will consider the petition to amend Rule 5 of the General Rules of Practice by establishing a fee for pro hac vice admissions, and the recommendations from the Advisory Committee to amend Rule 5 to implement an application process and motion requirements for pro hac vice admissions before the district court, after providing for a period of public comment.

Based on all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Any person or organization that wants to provide written comments in support of or in opposition to the petition of the Legal Services Advisory Committee or the recommendations of the Supreme Court Advisory Committee for the General Rules of Practice, and the proposed amendments to Rule 5 of the General Rules of Practice for the District Courts, shall file those comments with the Clerk of the Appellate Courts, using the appellate courts' e-filing application, E-MACS, if required to do so. *See* Minn. R. Civ. App. P. 125.01(a)(1). All comments shall be filed so as to be received on or before August 12, 2020.

2. A hearing will be held before this court to consider the petition of the Legal Services Advisory Committee and the recommendations of the Supreme Court Advisory Committee for the General Rules of Practice, and proposed amendments to Rule 5 of the General Rules of Practice. The hearing will take place in the Supreme Court Courtroom, State Capitol, Saint Paul, Minnesota, on September 15, 2020, immediately following the hearing on the petition to amend the Rules of the Supreme Court on Lawyer Registration, *see Order Regarding Proposed Amendments to the Rules of the Supreme Court on Lawyer*

*Registration*, No. ADM10-8002 (Minn. filed May 26, 2020). Any person or organization that wants to make a presentation at the hearing in support of or in opposition to the petition or the proposed amendments to Rule 5 of the General Rules of Practice for the District Courts shall file a request to so appear with the Clerk of the Appellate Courts, along with one copy of the material to be presented, using the appellate courts' e-filing application, E-MACS, if required to do so. *See* Minn. R. Civ. App. P. 125.01(a)(1). All requests and accompanying materials shall be filed so as to be received no later than August 12, 2020.

Dated: June 12, 2020

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea".

Lorie S. Gildea  
Chief Justice

**FILED**

NO. ADM 09-8009

January 13, 2020

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State of Minnesota

OFFICE OF  
APPELLATE COURTS

**In Supreme Court**

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In re: Proposed Amendment to the  
General Rules of Practice for the District Courts

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**PETITION AND APPENDIX OF LEGAL  
SERVICES ADVISORY COMMITTEE**

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*Legal Services Advisory Committee Chair*

Petitioner, Legal Services Advisory Committee (“LSAC”), respectfully asks this Court to amend the Rules of General Practice for District Courts to adopt a fee and registration process for out-of-state lawyers requesting leave to appear in Minnesota courts.

In support of its Petition, LSAC states:

1. The Supreme Court has the exclusive authority to amend the General Rules of Practice for District Courts.
2. The Minnesota Judicial Branch supports a strong access to justice system for all Minnesotans.
3. The creation of a pro hac vice fee will generate important resources to help support access to justice in Minnesota. The steering committee that oversaw Minnesota’s Justice for All grant application, on behalf of the Court, reviewed access to justice funding sources nationally and found that Minnesota was one of only three states to not charge any fee for out-of-state lawyers practicing in its courts. A summary of national pro hac vice rules and fees is attached as Appendix 1.
4. The creation of a fee would also improve the administration of pro hac vice practice in Minnesota courts. Interviews with district court staff find that there is currently no tracking of the number of attorneys who file pro hac vice petitions and no verification of the attorney’s licensure in their home state. Under the new rule, as fees are paid there would be a tracking system to have a list of the out-of-state licensed attorneys and the ability to verify their good standing.<sup>1</sup> This process would allow the Court to have information to inform potential future rule changes, such as limiting the number of times

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<sup>1</sup> In interviewing other states with pro hac vice administrative processes, options for verifying good standing include requiring a formal Certificate of Good standing at the time the fee is paid, spot checking the attorney’s status by having staff research the license through the home state attorney registration website, or leaving the onus on the attorney to certify that they are in good standing. The petitioner does not favor a particular process and would appreciate direction from the court on what level of scrutiny to require.

an attorney can appear pro hac vice or creating an exception to the fee for pro bono attorneys. To estimate the volume of attorneys who would pay the proposed fee, SCAO Research and Evaluation staff created a query to pull the number of attorneys with an address outside of Minnesota and with no Minnesota bar number entered in the case management system. The query results show 250 such attorneys in 2016, 262 in 2017 and 214 in 2018.

5. Both the Legal Services Advisory Committee (LSAC) and its associated Triage Portal Advisory Group (TPAC) have reviewed the proposed amendments and have voted to file this Petition and attachments to request that the Supreme Court implement the recommended changes.

6. LSAC respectfully requests that the Court amend Rule 5 of the General Rules of Practice as follows:

**Rule 5. Appearance by Out-of-State Lawyers**

Lawyers duly admitted to practice in the trial courts of any other jurisdiction may appear in any of the courts of this state provided (a) the pleadings are also signed by a lawyer duly admitted to practice in the State of Minnesota, ~~and~~ (b) such lawyer admitted in Minnesota is also present before the court, in chambers or in the courtroom or participates by telephone in any hearing conducted by telephone and (c) the out-of-state lawyer certify good standing in their home jurisdiction and pay a fee of \$450 to the Minnesota Lawyer Registration Office. In a subsequent appearance in the same action the out-of-state lawyer may, in the discretion of the court, conduct the proceedings without the presence of Minnesota counsel. The out-of-state lawyer is subject to all rules that apply to lawyers admitted in Minnesota, including rules related to e-filing.

Any lawyer appearing pursuant to this rule is subject to the disciplinary rules and regulations governing Minnesota lawyers and by applying to appear or appearing in any action is subject to the jurisdiction of the Minnesota courts.

7. State Court Administration staff have been consulted on the corresponding pro hac vice form (CIV103) and have provided suggested edits. The recommended amendments to the form are provided in Appendix 2.

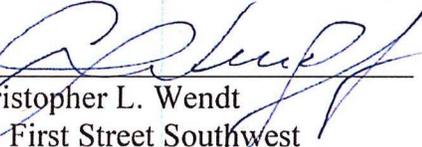
8. The revenue from the pro hac vice fee will be administered by LSAC in a dedicated grant fund open to legal aid, court and private bar projects under the Justice for All framework.<sup>2</sup> The primary project to be supported would be the statewide triage portal project to improve user experience and keep the technology current over time.

9. LSAC staff will work with the Lawyer Registration Office to determine staff support for the additional work of administering the rule.

Dated: January 9, 2020

Respectfully submitted,

LEGAL SERVICES ADVISORY COMMITTEE

By: 

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<sup>2</sup> This framework is detailed in the Minnesota Justice for All Strategic Plan, which can be found at [http://www.mncourts.gov/mncourtsgov/media/scao\\_library/documents/JFA-Strategic-Plan-FINAL.pdf](http://www.mncourts.gov/mncourtsgov/media/scao_library/documents/JFA-Strategic-Plan-FINAL.pdf).

Appendix 1 – Pro Hac Vice by State

State	Cost to Attorney	Citation	
Alabama	<p>\$300</p> <p>No fee for pro bono representation for capital defendants or postconviction criminal indigent defendants</p>	<ul style="list-style-type: none"> <li>Alabama Admission to the Bar Rule VII – Admission of Foreign Attorneys Pro Hac Vice</li> </ul>	<ul style="list-style-type: none"> <li>Pro bono applications need not be accompanied by a filing fee</li> <li>Definition of “pro bono counsel” limited to those will not be charging in a capital case or postconviction proceeding for an indigent criminal defendant</li> </ul>
Alaska	<p>\$660</p>	<ul style="list-style-type: none"> <li>Alaska Rules of Civil Procedure, Rule 81 - Attorneys</li> <li>State Bar Bylaws, Art III – Membership Fees and Penalties</li> </ul>	<ul style="list-style-type: none"> <li>The required fee is the amount required for active members of the bar, per case, per year</li> </ul>
Arizona	<p>\$505</p> <p>Shall be waived for pro bono representation</p>	<ul style="list-style-type: none"> <li>Arizona Supreme Court Rule 39 – Admission Pro Hac Vice</li> <li>Arizona Supreme Court Rule 40 – Provision of Legal Services Following Determination of Major Disaster</li> </ul>	<ul style="list-style-type: none"> <li>Fee equal to the current dues paid by active members of the bar for the calendar year + assessment for Client Protection Fund</li> <li>Fee shall be waived for pro bono representation of an indigent client (defined)</li> <li>15% of the application fee shall be deposited into a civil legal services fund</li> <li>Fees for pro hac vice for pro bono services following a determination of a major disaster are waived</li> </ul>

Arkansas	\$200  Shall be waived for pro bono representation as defined	<ul style="list-style-type: none"> <li>Arkansas Admission to the Bar Rule 14 – Practice by Comity. Pro Hac Vice Appearance</li> <li>Supreme Court Administrative Order 15.2 – Pro Bono Legal Services by Non-Admitted Licensed Attorneys</li> </ul>	<ul style="list-style-type: none"> <li>\$200 for each case the attorney is requesting to participate</li> <li>When seeking to represent an indigent person, the fee shall be waived when working under the auspices of a sponsoring entity (15.2)</li> </ul>
California	\$50	<ul style="list-style-type: none"> <li>California Rules of Court, Rule 9.40 - Counsel Pro Hac Vice</li> </ul>	<ul style="list-style-type: none"> <li>Fees used to defray expenses for administration of the rule and other expenses of the Board of Trustees of the State Bar</li> </ul>
Colorado	\$325	<ul style="list-style-type: none"> <li>Colorado Court Rule 205.3 – Pro Hac Vice Authority Before State Courts</li> <li>Colorado Court Rule 227 – Registration Fee of Attorneys and Attorney Judges</li> </ul>	<ul style="list-style-type: none"> <li>Separate fee required for each action</li> <li>Annual</li> <li>\$25 of the fee to the Attorneys Fund for Client Protection</li> </ul>
Connecticut	\$620 + \$75	<ul style="list-style-type: none"> <li>Practice Book 1998 Sec. 2-16 – Attorneys Appearing Pro Hac Vice</li> <li>Connecticut General Statutes Annotated 52-259 – Court Fees</li> </ul> <p><a href="https://www.jud.ct.gov/SGC/faq_prohacvice.htm#2">https://www.jud.ct.gov/SGC/faq_prohacvice.htm#2</a></p>	<ul style="list-style-type: none"> <li>\$620 is admission fee for pro hac vice</li> <li>\$75 is the fee for Client Services Fund which must be paid every year</li> </ul>

Delaware	\$407 (as of 1/1/18)	<ul style="list-style-type: none"> <li>• Supreme Court Rule 71 – Admission Pro Hac Vice</li> <li>• Example - Court of Common Pleas Rule 90.1</li> </ul>	<ul style="list-style-type: none"> <li>• Application for admission pro hac vice must be made separately before each Court in which admission is sought</li> <li>• \$400 in calendar year 2016, and thereafter increased annually by the rate of inflation as determined by the Delaware Supreme Court</li> </ul>
Florida	<p>\$250</p> <p>Fee may be waived for cases involving pro bono or indigent clients</p>	<ul style="list-style-type: none"> <li>• Florida Rules of Judicial Administration, Rule 2.510 – Foreign Attorneys</li> <li>• Florida Bar Rule 1-3.10 – Appearance by Non-Florida Lawyer in a Florida Court</li> </ul>	<ul style="list-style-type: none"> <li>• Nonrefundable \$250.00 filing fee made payable to The Florida Bar or notice that the movant has requested a judicial waiver of said fee</li> <li>• Fee may be waived in cases involving indigent or pro bono clients</li> </ul>
Georgia	<p>\$275 first time \$200 each year after</p> <p>May qualify for a fee waiver</p>	<ul style="list-style-type: none"> <li>• Rules of the Supreme Court of Georgia, Rule 4 – Requirements for Attorneys Practicing Before the Supreme Court</li> <li>• Court of Appeals Rule 9 – Attorneys</li> <li>• Uniform Superior Court Rule 4.4 – Admission Pro Hac Vice</li> </ul>	<ul style="list-style-type: none"> <li>• Each time an application for admission pro hac vice is submitted under Rule 4 or 9 \$200 fee to the Georgia Bar Foundation + registration fee</li> <li>• For Superior Court admission, a non-refundable fee of \$75 is required for each application for pro hac vice admission and an annual fee of \$200, regardless of the number of pro hac vice admissions</li> <li>• An applicant for pro hac vice admission before the Superior Court who is representing clients pro bono as an employee or associated with a pro bono project or nonprofit legal services organization, or if representing an</li> </ul>

			indigent client in a criminal or habeas matter
Hawaii	\$815	<ul style="list-style-type: none"> <li>• Supreme Court Rule 1.9 – Pro Hac Vice Appearance of Counsel for Court Proceedings</li> <li>• Hsba.org/images/hsba/Renewal/Forms/Pro_Hac_Vice.pdf</li> </ul>	<ul style="list-style-type: none"> <li>• Annual Disciplinary Board fee (\$600)</li> <li>• Annual Lawyers' Fund for Client Protection fee (\$50)</li> <li>• May assess a reasonable fee to register and collect these fees (\$15) + (\$150)</li> </ul>
Idaho	\$325	<ul style="list-style-type: none"> <li>• Idaho Bar Commission Rule 227 – Pro Hac Vice Admission</li> </ul>	<ul style="list-style-type: none"> <li>• \$325 fee to the Bar, \$125 of which shall be remitted by the Bar to the Idaho Law Foundation to support its pro bono legal services program.</li> </ul>
Illinois	\$250  No fees for pro bono representation	<ul style="list-style-type: none"> <li>• Illinois Supreme Court Rule 707 – Permission for an Out-of-State Attorney to Provide Legal Services in Proceedings in Illinois</li> <li>• Illinois Supreme Court Rule 718 – Provision of Legal Services Following Determination of Major Disaster</li> </ul>	<ul style="list-style-type: none"> <li>• \$250 per proceeding</li> <li>• No fee shall be due from an attorney appointed to represent an indigent defendant in a criminal or civil case, or from an attorney employed by or associated with a nonprofit legal service organization in a civil case involving the client of such a program, from an attorney providing legal services pursuant to Rule 718 (disaster)</li> <li>• \$175 of the fee is for the Court's Access to Justice Commission</li> <li>• Fee for pro hac vice admission waived when providing pro bono service following a disaster</li> </ul>
Indiana	\$180	<ul style="list-style-type: none"> <li>• State Court Rules (Civil) – Admission and Discipline Rule 2</li> </ul>	<ul style="list-style-type: none"> <li>• As of Jan 1, 2020 – No fee for pro hac vice pro bono</li> <li>• An applicant for a license as a pro bono publico attorney under this Rule</li> </ul>

		<ul style="list-style-type: none"> <li>Amended 10/19 2019 INDIANA COURT ORDER 0017 (C.O. 0017)</li> </ul>	<p>shall not be required to pay any fee other than which is required by other rules herein. 2019 INDIANA COURT ORDER 0017 (C.O. 0017)</p>
Iowa	\$250	<ul style="list-style-type: none"> <li>Iowa Code Annotated - Rule 31.14 – Admission Pro Hac Vice Before Iowa Courts and Administrative Agencies</li> </ul>	<ul style="list-style-type: none"> <li>\$250 fee to the client security trust fund</li> <li>Good for 5 years</li> </ul>
Kansas	\$100  May be waived for good cause when representing an indigent party	<ul style="list-style-type: none"> <li>Supreme Ct. Rule 116 – Admission Pro Hac Vice of Out-of-State Attorney</li> <li>Supreme Ct. Rule 1.10 – Admission Pro Hac Vice of Out-of-State Attorney Before the Kansas Appellate Courts</li> </ul>	<ul style="list-style-type: none"> <li>The Kansas attorney of record may seek waiver of the fee--for good cause- - if the out of state attorney represents the government or an indigent party</li> </ul>
Kentucky	\$320.85	<ul style="list-style-type: none"> <li>Rules of the Supreme Court Rule 3.030 – Membership, Practice by Nonmembers and Classes of Membership</li> <li>Kybar.org/page/prohac</li> </ul>	<ul style="list-style-type: none"> <li>One time per case fee equal to the annual dues paid by those KBA members who have been admitted to practice law for five years</li> <li>\$310 per case/per attorney + \$10.85 administrative fee</li> </ul>
Louisiana	\$450  No fee required for pro bono representation	<ul style="list-style-type: none"> <li>Supreme Ct. Rule 17 (Sec. 13), 8 LSA-R.S – Admission to the Bar of the State of Louisiana</li> </ul>	<ul style="list-style-type: none"> <li>Non-refundable fee of \$450.00 to the Louisiana Attorney Disciplinary Board</li> <li>Applicant shall not be required to pay the fee if applicant will not charge an attorney fee to the client(s) and is employed or associated with a pro bono project or nonprofit legal services organization in a civil case involving</li> </ul>

			the client(s) of such programs or involved in a criminal case or habeas proceeding for an indigent defendant
Maine	\$700	<ul style="list-style-type: none"> <li>• Admin Order JB-05-26 (as amended 9/19/19) – Revised Court Fees Schedule and Document Management Procedures</li> <li>• Maine Rules of Civil Procedure, Rule 89 – Withdrawal of Attorneys; Visiting Lawyers; Temporary Practice with Legal Services Organizations</li> </ul>	<ul style="list-style-type: none"> <li>• \$100 of the fee to be deposited into an Other Special Revenues account to fund the Court Management System</li> </ul>
Maryland	No Fee	<ul style="list-style-type: none"> <li>• MD Code, Business Occupations &amp; Professions, § 10-215</li> </ul>	
Massachusetts	\$355 – Superior Court, Land Court, appellate courts other than Appellate Division of the District Court or Boston Municipal Court \$ 101 – other courts	<ul style="list-style-type: none"> <li>• Supreme Judicial Court Rule 3:15 – Pro Hac Vice Registration Fee</li> </ul>	<ul style="list-style-type: none"> <li>• To have the fee waived, the attorney must complete and submit the Board required form along with a statement that the attorney will be providing services <i>pro bono publico</i> to an indigent client</li> </ul>

	No fee when providing pro bono services to an indigent client		
Michigan	\$135	<ul style="list-style-type: none"> <li>Michigan Court Rules – Rule 8.126 – Temporary Admission to the Bar</li> </ul>	<ul style="list-style-type: none"> <li>In each case in which an out-of-state attorney seeks temporary admission in Michigan, the out-of-state attorney must pay a fee equal to the discipline and client-protection portions of a bar member's annual dues</li> <li>Up to 5 cases per year</li> </ul>
Mississippi	\$300  Court or agency may waive the filing fees for pro hac vice admission for good cause when attorney is representing an indigent client	<ul style="list-style-type: none"> <li>Mississippi Rules of Appellate Procedure – Rule 46 - Admission, Withdrawal, and Discipline of Attorneys</li> </ul>	<ul style="list-style-type: none"> <li>Simultaneously with the filing of the application attorney shall pay to the Mississippi Bar \$300 to be used to provide legal services to the indigent, and shall certify to the court or agency that such payment has been made, and shall pay the Clerk of the Supreme Court miscellaneous docket fees</li> <li>In cases involving indigent clients, the court or agency may waive the filing fees for good cause shown</li> </ul>
Missouri	\$410	<ul style="list-style-type: none"> <li>Supreme Court Rule 6.01 - Annual Enrollment Fee and Statement-- Exemptions-- Penalties--Pro Hac Vice Fee—Pro Bono Waiver</li> </ul>	<ul style="list-style-type: none"> <li>A lawyer seeking to appear pro hac vice shall pay a fee equal to the fee paid by lawyers under Rule 6.01(j)(1), with the fee to be paid for each case in each court or administrative tribunal in which the lawyer seeks to appear</li> <li>Waiver is for Missouri attorneys doing pro bono work under certain conditions</li> </ul>

		<ul style="list-style-type: none"> <li>• Supreme Court Rule 9.03 - Visiting Attorney Appearing in a Particular Case</li> </ul>	
Montana	\$495	<ul style="list-style-type: none"> <li>• Montana Rules of Court – Admission to the Bar § 6 – Pro Hac Vice</li> <li>• Montana Rules of Court – Admission to the Bar § 1 – Application Process</li> <li>• <a href="https://www.montanabar.org/page/ProHacVice">https://www.montanabar.org/page/ProHacVice</a></li> </ul>	<ul style="list-style-type: none"> <li>• Completed application, along with a fee equal to the annual amount paid by active members of the Montana Bar, must be filed with the Bar Admissions Administrator</li> <li>• Fee is due each year</li> <li>• Attorneys admitted pro hac vice shall continue to pay annual dues and fees as provided in Rule I.G.6. while the case is pending – EXCEPT that an attorney who is appearing <i>pro bono</i>, as defined under Rule 6.1 of the Rules of Professional Conduct, may pay a one-time-only <i>pro hac vice</i> fee equal to the amount paid annually by active members of the Montana Bar</li> </ul>
Nebraska	\$250  Court may waive fee for pro bono rep	<ul style="list-style-type: none"> <li>• Neb Ct. R. § 3-122 - Pro Hac Vice Admission</li> </ul>	<ul style="list-style-type: none"> <li>• A \$250 fee payable to the clerk of each court in which the attorney is appearing or making any filing, for each case the attorney is appearing or making any filing.</li> <li>• Need not file a second motion and pay another fee in the Nebraska Supreme Court if that same appeal is later docketed in the Court for any reason</li> <li>• Court may, in its discretion and upon written motion, waive the fee for applicants who are representing</li> </ul>

			governmental entities or providing pro bono representation of an indigent client.
Nevada	\$550 \$500 annual renewal  May be able to have fee waived	<ul style="list-style-type: none"> <li>• Supreme Court Rule 42 - Practice of attorneys not admitted in Nevada</li> </ul>	<ul style="list-style-type: none"> <li>• A non-refundable application fee of \$550.00, or an application for waiver of fees</li> <li>• Upon a showing that the applicant is providing pro bono services in a death penalty habeas corpus case or in other similar circumstances providing for pro bono representation, the court, arbitrator, mediator, or administrative or governmental agency may waive the original fee and the annual renewal fee.</li> </ul>
New Hampshire	\$350	<ul style="list-style-type: none"> <li>• Supreme Court Rule 33 – Nonmember of the New Hampshire Bar</li> <li>• New Hampshire Superior Court Civil Rule 19 – Out of State Counsel</li> <li>• Supreme Court Rule 49 – Fees in Supreme Court</li> <li>• Other courts – similar rules</li> </ul>	<ul style="list-style-type: none"> <li>• Application fee may be waived to permit pro bono representation of an indigent client or clients, in the discretion of the court</li> <li>• Application fee of \$350</li> </ul>
New Jersey	\$212	<ul style="list-style-type: none"> <li>• New Jersey Rules of Court Rule 1:21-2 – Appearances Pro Hac Vice</li> <li>• New Jersey Rules of Court Rule 1:20-1 -</li> </ul>	<ul style="list-style-type: none"> <li>• Include a copy of the order granting admission when submitting to the New Jersey Lawyers' Fund for Client Protection the annual fee provided for by <a href="#">R. 1:20-1</a></li> </ul>

		<p>Disciplinary Jurisdiction; Annual Fee and Registration</p> <ul style="list-style-type: none"> <li>• <a href="https://www.njcourts.gov/attorneys/cpfannualot her.html">https://www.njcourts.gov/attorneys/cpfannualot her.html</a></li> </ul>	<ul style="list-style-type: none"> <li>• Attorneys admitted pro hac vice shall pay annually to the Oversight Committee a sum that shall be determined each year by the Supreme Court.</li> </ul>
New Mexico	<p>\$450 for initial certificate within a calendar year - \$275 for each thereafter within the year</p> <p>Fee shall be waived for pro bono representation</p>	<ul style="list-style-type: none"> <li>• New Mexico Rule 24-106- Practice by Non-admitted Lawyers</li> </ul>	<ul style="list-style-type: none"> <li>• The fee for pro hac vice admission shall be waived when the attorney will be performing legal services on behalf of an indigent client in a proceeding for which the attorney is registering and will be charging no fee for the services</li> <li>• Some of the fees collected shall be held by the State Bar of New Mexico in a special fund to support the delivery of civil legal services to the poor</li> </ul>
New York	No Fee	<ul style="list-style-type: none"> <li>• NY Court Rules 520.11 – Admission Pro Hac Vice</li> </ul>	
North Carolina	\$225	<ul style="list-style-type: none"> <li>• N.C.G.S.A § 84-4.1 Limited Practice of Out-Of-State Attorneys</li> </ul>	<ul style="list-style-type: none"> <li>• A fee in the amount of two hundred twenty-five dollars (\$225.00), of which two hundred dollars (\$200.00) shall be remitted to the State Treasurer for support of the General Court of Justice and twenty-five dollars (\$25.00) shall be transmitted to the North Carolina State Bar to regulate the practice of out-of-state attorneys.</li> </ul>
North Dakota	\$380	<ul style="list-style-type: none"> <li>• North Dakota State Court Rule 3 – Pro Hac Vice Admission and</li> </ul>	<ul style="list-style-type: none"> <li>• A fee equal to that required for a lawyer who has been licensed in North Dakota for five years or more</li> </ul>

		<p>Registration of Nonresident Lawyers</p> <ul style="list-style-type: none"> <li>• <a href="https://www.ndcourts.gov/supreme-court/committees/board-of-law-examiners/pro-hac-vice-admission">https://www.ndcourts.gov/supreme-court/committees/board-of-law-examiners/pro-hac-vice-admission</a></li> </ul>	<ul style="list-style-type: none"> <li>• Fee required only once per year</li> <li>• Fee must be paid annually</li> </ul>
Ohio	<p>\$300</p> <p>Limited waiver of fee may be available</p>	<ul style="list-style-type: none"> <li>• Gov. Bar Rul2 12 – Pro Hac Vice Admission</li> </ul>	<ul style="list-style-type: none"> <li>• \$300 fee</li> <li>• Of the \$300, \$150 shall be deposited into the Attorney Services Fund for use to fund civil legal aid services for low-income or disadvantaged populations in Ohio</li> <li>• Limited waiver of fee may be available for an attorney representing an amicus curiae in support of an indigent defendant in a criminal matter.</li> <li>• The attorney shall pay a renewal fee equal to the registration fee (\$300)</li> </ul>
Oklahoma	<p>\$350</p> <p>May be waived for pro bono representation</p>	<ul style="list-style-type: none"> <li>• Title 5, Chapter 1, App. 1, Article 2 § 5 – Out-of-State Attorneys Granted Special Temporary Permit to Practice</li> </ul>	<ul style="list-style-type: none"> <li>• Attorney shall pay \$350.00 as a non-refundable application fee to the Oklahoma Bar Association</li> <li>• Payable annually</li> <li>• Attorneys appearing pro bono representing indigent criminal defendants or who otherwise qualify for representation under the guidelines of the Legal Services Corporation due to their incomes and the kinds of legal matters that would be covered by the representation may request a waiver of the application fee from the Oklahoma Bar Association</li> </ul>

Oregon	<p>\$500</p> <p>Limited waiver of fees possible</p>	<ul style="list-style-type: none"> <li>• Oregon Revised Statutes § 9.241 - Appearance by out-of-state attorneys: rules; fees</li> <li>• Uniform Trial Court Rules 3.170 – Association of out-of-state counsel</li> </ul>	<ul style="list-style-type: none"> <li>• Amounts collected may be used only for the funding of legal services provided through the Legal Services Program and for expenses incurred by the Oregon State Bar in the administration of the Legal Services Program</li> <li>• The applicant must pay to the Bar a fee of \$500 at the time of submission</li> <li>• Same for annual renewal</li> <li>• No fee is required if the applicant is employed by a government body and will be representing that government body</li> <li>• No fee if the applicant is participating in a child custody proceeding pursuant to the Indian Child Welfare Act and represents an Indian tribe, parent, or Indian custodian</li> </ul>
Pennsylvania	<p>\$375</p>	<ul style="list-style-type: none"> <li>• Pennsylvania Bar Admission Rule 301, 42 Pa. C.S.A. – Admission Pro Hac Vice</li> <li>• PA Rules of Civil Procedure 1012.1- Admission Pro Hac Vice. Motion. Content.</li> <li>• 204 Pennsylvania Admin. Code § 81.505</li> </ul>	<ul style="list-style-type: none"> <li>• Pay such fee to the Pennsylvania Interest on Lawyer Trust Account (IOLTA) Board as is required by the regulations</li> <li>• Pay a fee of \$375 for each case</li> <li>• No fee shall be required if the client being represented has been granted in forma pauperis status, or for actions before a special court</li> <li>• Fees collected shall be used by the IOLTA Board to fund the expenses needed to administer this regulation, and to supplement the funding of non-</li> </ul>

			profit organizations that provide civil legal services to the indigent and disadvantaged, or for similar
Rhode Island	Specific amount not listed	<ul style="list-style-type: none"> <li>• Supreme Court Rules, Art. II, Rule 9 – Nonresident Attorneys – In-house Counsel – Senior Law Students</li> </ul>	<ul style="list-style-type: none"> <li>• A separate miscellaneous petition and filing fee shall be required of each attorney seeking pro hac vice admission</li> <li>• Only 3 cases permitted in 5 years</li> </ul>
South Carolina	\$250	<ul style="list-style-type: none"> <li>• South Carolina Appellate Court Rule 404 – Admission Pro Hac Vice</li> </ul>	<ul style="list-style-type: none"> <li>• Admission fee of \$250</li> </ul>
South Dakota	\$200	<ul style="list-style-type: none"> <li>• South Dakota Codified Laws § 16-18-2 – Attorney Licensing- Non-Resident Attorneys – Pro Hac Vice Admission-</li> </ul>	<ul style="list-style-type: none"> <li>• Fee \$200</li> <li>• Clerk shall remit one hundred dollars to such fund as may be hereafter designated by the Supreme Court for the benefit of the Unified Judicial System and one hundred dollars to the State Bar</li> </ul>
Tennessee	\$170  Fee shall be waived for pro bono representation	<ul style="list-style-type: none"> <li>• Supreme Court Rule 19 – Appearance Pro Hac Vice</li> </ul>	<ul style="list-style-type: none"> <li>• Fee equal to those required of Tennessee Lawyers (\$170)</li> <li>• Fee shall be waived if the lawyer will not charge an attorney's fee in the proceeding</li> </ul>
Texas	\$250  Fee may be waived for pro bono representation	<ul style="list-style-type: none"> <li>• Texas Government Code § 82.0361 – Nonresident Attorney Fee</li> <li>• Texas Rules Governing Admission to the Bar,</li> </ul>	<ul style="list-style-type: none"> <li>• Fee of \$250 for each case in which the attorney is requesting to participate</li> <li>• Supreme court may adopt rules to waive or reduce the fee required by this section for a nonresident attorney who seeks to represent an indigent</li> </ul>

		<p>Rule 19 – Requirements for Participation in Texas Proceedings by a Non-Resident Attorney</p> <ul style="list-style-type: none"> <li>• <a href="https://ble.texas.gov/non-resident-attorney-fee-info">https://ble.texas.gov/non-resident-attorney-fee-info</a></li> </ul>	<p>person in proceedings in a court in this state</p> <ul style="list-style-type: none"> <li>• Form to ask for waiver is on the Board of Governors' website</li> </ul>
Utah	<p>\$425</p> <p>Fee will be waived for pro bono</p>	<ul style="list-style-type: none"> <li>• Utah Special Practice Rule 14-806 – Admission Pro Hac Vice</li> </ul>	<p>Application fee equal to the current dues paid by active members of the Utah State Bar for the licensing year in which the application is filed</p> <ul style="list-style-type: none"> <li>• Annual</li> <li>• Fee will be waived for non-member attorneys providing legal services without compensation or an expectation of compensation through a charitable, religious, civic, community, governmental, or educational organization in a matter designed primarily to address the needs of people of limited means</li> </ul>
Vermont	\$200	<ul style="list-style-type: none"> <li>• Vermont Administrative Order 41 – Licensing of Attorneys</li> <li>• <a href="https://www.vermontjudiciary.org/sites/default/files/documents/900-00022%20-%20Pro%20Hac%20Vice%20Application.pdf">https://www.vermontjudiciary.org/sites/default/files/documents/900-00022%20-%20Pro%20Hac%20Vice%20Application.pdf</a></li> </ul>	<ul style="list-style-type: none"> <li>• Must pay the fee set in the fee schedule approved by the State Court Administrator</li> <li>• Licensing fee may be waived to permit pro bono representation of an indigent client or clients, at the discretion of the State Court Administrator.</li> <li>• Application form shows fee of \$200</li> </ul>

Virginia	\$250	<ul style="list-style-type: none"> <li>• Supreme Court Rule 1A:4 – Out of State Lawyers – When Allowed by Comity to Participate in a Case Pro Hac Vice</li> </ul>	<ul style="list-style-type: none"> <li>• Application fee of \$250.00 for each separate case before a tribunal</li> </ul>
Washington	<p>\$483 \$453 Pro Hac Vice application fee + \$30 Client Protection Fund</p> <p>Shall be waived for pro bono representation</p>	<ul style="list-style-type: none"> <li>• Admission to Practice Rule 8 – Nonmember Lawyer Licenses to Practice Law</li> <li>• <a href="https://www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/lawyers/pro-hac-vice">https://www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/lawyers/pro-hac-vice</a></li> </ul>	<ul style="list-style-type: none"> <li>• Fee equal to the amount required for active lawyer members of the bar + Client Fund Assessment</li> <li>• Shall be waived for a lawyer providing legal services for no fee through a qualified legal services provider or a lawyer rendering service for no fee in either a bar association or governmentally sponsored legal services organization or in a public defender's office or similar program providing legal services to indigents and only in that capacity</li> </ul>
West Virginia	\$350 + annual \$350	<ul style="list-style-type: none"> <li>• Admission to the Practice of Law, Rule 8 - Admission Pro Hac Vice</li> </ul>	<ul style="list-style-type: none"> <li>• Fee of \$350 payable to the West Virginia State Bar for each individual applicant in each individual pro hac vice admission for each separate case</li> <li>• Out-of-state lawyers admitted pro hac vice for one year or more in one or more cases must pay an annual fee of \$350 in addition to the application fee required in Rule 8(c)</li> </ul>
Wisconsin	<p>\$250</p> <p>Shall be waived for pro bono representation</p>	<ul style="list-style-type: none"> <li>• Supreme Court Rule 10.03 - Membership</li> </ul>	<ul style="list-style-type: none"> <li>• Fee of \$250 for each application for admission pro hac vice</li> <li>• Fee shall be waived if the application certifies that the attorney is employed by an agency providing legal services</li> </ul>

			to indigent clients and will be appearing on behalf of an indigent client, or that the applicant will otherwise be appearing on behalf of an indigent client in the proceeding and will be charging no fee for the appearance
Wyoming	\$500	<ul style="list-style-type: none"> <li>• Wyoming State Bar and Authorized Practice of Laws Rule 8 – Pro Hac Vice Admission</li> <li>• Wyoming Rules of Appellate Procedure, Rule 19.01 – Appearance; Admission Pro Hac Vice</li> <li>• <a href="https://www.wyomingbar.org/for-lawyers/admissions/pro-hac-vice/">https://www.wyomingbar.org/for-lawyers/admissions/pro-hac-vice/</a></li> </ul>	<ul style="list-style-type: none"> <li>• Application fee as determined by the Wyoming Bar Association</li> </ul>





**ADM-09-8009  
STATE OF MINNESOTA  
IN SUPREME COURT**

**FILED**

May 27, 2020

**OFFICE OF  
APPELLATE COURTS**

**In re:**

**Supreme Court Advisory Committee  
on General Rules of Practice**

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**Recommendations of Minnesota Supreme Court  
Advisory Committee on General Rules of Practice**

**Final Report**

**May 27, 2020**

**Hon. Stephen M. Halsey, Buffalo  
Chair**

**Hon. Margaret Chutich, Saint Paul  
Liaison Justice**

**Kevin P. Curry, Minneapolis  
Jill I. Frieders, Rochester  
Phillip Gainsley, Minneapolis  
Hon. Jason T. Hutchison, Minneapolis  
Sean Jones, Grand Rapids  
Kenneth A. Kimber, Duluth  
Lisa D. Kontz, West St. Paul  
Lisa Lane, Minneapolis**

**Rhonda J. Magnussen, Elk River  
Henry Parkhurst, Minneapolis  
Timothy J. Pramas, Saint Paul  
Susan C. Rhode, Minneapolis  
Galen Robinson, Minneapolis  
Hon. Mark M. Starr, Hibbing  
Hon. Mary R. Vasaly, Minneapolis**

**Michael B. Johnson, Saint Paul  
Patrick Busch, Saint Paul  
Staff Attorneys**

**David F. Herr, Minneapolis  
Reporter**

## **Introduction**

At the direction of the Court, the advisory committee met once to discuss a proposal that originated from the Legal Services Advisory Committee (LSAC) to provide for an application fee for *pro hac vice* admissions. The LSAC proposal left open the fee and application processing details, which were suggested by an ad hoc group comprising the committee's liaison justice, reporter and staff, the directors of the Board of Law Examiners and the Lawyers Professional Responsibility Board, and LSAC staff. The proposal produced by the ad hoc process was reviewed by the advisory committee. The committee was directed by the Court to report by June 1, 2020.

The committee did not review any additional subjects and is not aware of any other issues relating to the general rules that would benefit from attention at present. The LSAC petition is already in the Court's administrative file, and the committee meeting summary will be filed alongside this report.

## **Summary of Recommendations**

The proposed rule recommended in this report contemplates a two-step process for *pro hac vice* admission. The first step involves application by the out-of-state attorney and payment of a fee to the Board of Law Examiners, which would verify the applicant's good standing. After the Board of Law Examiners has certified the out-of-state attorney's good standing, the second step is a motion made by a sponsoring, Minnesota-admitted attorney which is filed with an affidavit from the out-of-state lawyer providing relevant background information that will allow the presiding trial court judge to decide whether to grant admission *pro hac vice*.

The committee recognized that the primary question before the Court on this LSAC petition relates to the funding of legal services for the disadvantaged and did not directly address the need for or appropriateness of this fee (although no doubts were expressed on those questions). There was discussion over the appropriate amount of the

fee, and at least one member expressed the view that \$450 was an excessive amount for admission in a single case, but the committee did not analyze that question and its recommendation is essentially agnostic about the specific amount of the fee.

The committee considered the question of whether the \$450 application fee should be defined in the rule as being either a taxable or non-taxable cost, but decided that this issue should not be addressed in this rule. It is not clear that this fee would normally be taxable as a cost or disbursement, but it is possible that some circumstance would allow recovery.

The committee has focused primarily on drafting a rule that will be helpful to trial courts and will create a process for considering *pro hac vice* applications in an efficient manner. The committee was aware that some judges would welcome greater guidance on what factors should be considered in ruling on *pro hac vice* admissions and believes this recommended revision will address those concerns.

This recommended rule applies only in the district courts and *pro hac vice* admission under the rule only authorizes practice in the district courts. The rule adopts the standard for when *pro hac vice* admission is required from the civil appellate rules—requiring it for non-admitted lawyers signing pleadings or other papers in a case or when arguing to the court, but not otherwise. *See* Minn. R. Civ. App. P. 143.05, subd. 1. If the appellate courts were to determine that separate *pro hac vice* admission is not required on appeal for lawyers admitted *pro hac vice* in the district court, the rule could readily be amended to accomplish that. Similarly, if the procedure established in Rule 5, including the application process to the Board of Law Examiners and payment of the application fee, were deemed desirable, Rule 5 and appellate rule 143.05 could readily be amended to create that uniform approach. The committee did not consider the wisdom of either approach, leaving that to the appellate courts.

### **Effective Date**

The committee believes that any rule amendments can be made effective six months following adoption to allow the bench and bar to become familiar with the rule, to allow the Board of Law Examiners to put in place the necessary fee-processing software development, and for the state court administrator's office to put in place motion processing instructions and required forms. The committee also believes that the rule should apply to all actions pending on the effective date and to all applications for *pro hac vice* admission filed on or after that date. Although the other provisions would apply to all *pro hac vice* counsel, the rule should not require reapplication for lawyers currently admitted *pro hac vice*. This ensures application in pending cases of the parts of the rule addressing revocation and the ongoing duty to comply with all Minnesota rules and to notify the court and the Board of Law Examiners of any new suspension or disbarment.

### **Style of Report**

The specific recommendations are reprinted in traditional legislative format, with new wording underscored and deleted words ~~struck through~~. New advisory committee comments are not underscored.

Respectfully submitted,

MINNESOTA SUPREME COURT ADVISORY  
COMMITTEE ON GENERAL RULES OF  
PRACTICE

**Recommendation 1: The Court should adopt amendments to Rule 5 that add a fee for *pro hac vice* admissions.**

**Introduction**

The committee believes this rule will provide needed guidance to the bench and bar for this important administrative procedure that arises in relatively few actions. The rule will allow the court to make a decision on the application with useful information relevant to consideration of the motion and with guidance in the rule on the standards to be applied. The rule also makes it clear that *pro hac vice* counsel are required to follow Minnesota rules and professional responsibility standards.

**Specific Recommendations**

The advisory committee recommends that Rule 5 be amended to make the changes set forth below.

*In these proposed rules amendments, proposed deletions are indicated by a line drawn through the words and additions by a line under the words.*

1 **RULE 5. APPEARANCE BY OUT-OF-STATE LAWYERS**

2 **5.01 Eligibility.**

3 **(a) Who is Eligible.** Lawyers duly admitted to practice in the trial courts of any  
4 other jurisdiction who have been retained to appear in a particular case pending in a  
5 district court of this state may in the discretion of such court be permitted upon written  
6 application to appear as counsel *pro hac vice* appear in any of the courts of this state  
7 provided;

8 (1) the out-of-state lawyer certifies to the satisfaction of the Minnesota  
9 Board of Law Examiners the lawyer's good standing in the jurisdiction in which  
10 the lawyer primarily practices and that the lawyer is not suspended or disbarred in  
11 any jurisdiction for reasons of discipline or disability in lieu of discipline;

12 (2) the out-of-state lawyer pays a non-refundable fee of \$450 to the  
13 Minnesota Board of Law Examiners;

14           (3) the pleadings and other documents in the case are also signed by a  
15 lawyer who is and remains duly admitted to practice in the State of Minnesota;  
16 and

17           (b4) such lawyer admitted in Minnesota:

18                   (i) accepts service of all papers, and

19                   (ii) is also present before the court, in chambers or in the courtroom  
20 or participates by permitted remote means ~~telephone~~ in any hearing  
21 conducted by remote means ~~telephone~~. In a subsequent appearance in the  
22 same action the out-of-state lawyer may, in the discretion of the court,  
23 conduct the proceedings without the presence of Minnesota counsel.

24           **(b) When Required; Urgent Matter.** Pro hac vice admission under this rule is  
25 required for any lawyer either arguing before the court in an action or signing pleadings  
26 or other documents in an action. The court may allow a non-admitted lawyer to argue or  
27 submit an urgent matter upon the lawyer’s representation to the court that the lawyer  
28 qualifies for admission under this rule and that an application for pro hac vice admission  
29 will be promptly submitted.

30           **5.02 Ineligibility.**

31           No person is eligible to appear as counsel pro hac vice under this rule if the person  
32 has an office or other “systematic and continuous presence” in Minnesota as provided in  
33 Rule 5.5(b) of the Minnesota Rules of Professional Conduct, or is suspended or disbarred  
34 in any jurisdiction as provided in Rule 5.5(c) of the Minnesota Rules of Professional  
35 Conduct. Any lawyer admitted pro hac vice must promptly advise the court and the  
36 Minnesota Board of Law Examiners of any suspension or disbarment of that lawyer.

37           **5.03 Exceptions.**

38           **(a) Other Rules.** Rule 5 shall not apply if another rule expressly exempts a case  
39 or proceeding from requiring pro hac vice admission. These rules include, without  
40 limitation, Rule 3.06 of the Rules of Juvenile Protection Procedure (attorneys  
41 representing Indian tribes in juvenile protection cases), Rule 3.09 of the Rules of  
42 Adoption Procedure (attorneys representing Indian tribes in adoption cases), and Rule  
43 45.06(b) of the Rules of Civil Procedure (application for a subpoena for use in an action  
44 pending outside Minnesota).

45           **(b) Fee Waiver.**

46                   **(1) Pro Bono Representation.** A lawyer who represents a person with  
47 limited means and will not charge an attorney fee or seek or receive attorney fee

48 reimbursement in the case in which the lawyer seeks admission *pro hac vice* shall  
49 not be required to pay the fee set forth in Rule 5.01(a)(2).

50 (2) Public Attorney. A lawyer who is representing a federal, state or local  
51 government entity shall not be required to pay the fee set forth in Rule 5.01(a)(2).

52 (3) Other Fee Waivers. No other fee waivers will be granted.

53 (c) Multiple Related Cases. When the lawyer seeks *pro hac vice* admission for  
54 two or more cases pending in this state that involve one or more common questions of  
55 fact or are otherwise significantly related cases, the lawyer may make a single application  
56 under Rule 5.04 and pay a single fee to the Board of Law Examiners, but must make  
57 motions in individual cases as provided in Rule 5.05 unless the cases are being handled  
58 by a single judge. If any judge deciding a Rule 5.05 motion finds that one or more cases  
59 do not involve common questions of fact or are not otherwise significantly related, the  
60 judge may direct that the lawyer pay the Board of Law Examiners the fee due under this  
61 rule for each such case.

62 **5.04 Application to Minnesota Board of Law Examiners.**

63 The application to the Minnesota Board of Law Examiners shall be submitted  
64 electronically, and shall be accompanied by the fee in Rule 5.01(a)(2) unless waived as  
65 provided in Rule 5.03(b). The application shall be verified by the applicant in the manner  
66 required by the Board of Law Examiners and shall state:

67 (a) the applicant's business address;

68 (b) the courts before which the applicant has been admitted to practice generally,  
69 along with a certificate of good standing from the attorney licensing authority in the  
70 jurisdiction in which the applicant primarily practices;

71 (c) whether the applicant has been suspended or disbarred in any jurisdiction for  
72 reasons of discipline or disability in lieu of discipline;

73 (d) whether the applicant qualifies for any fee waiver permitted under this rule;  
74 and

75 (e) any other information requested by the Minnesota Board of Law Examiners.

76 **5.05 Motion to Court.**

77 (a) Requirements. In addition to the application submitted under Rule 5.04, an  
78 active member in good standing of the bar of this state who is attorney of record for the  
79 client(s) whom the applicant proposes to represent, must move the applicant's admission

80 in the action. The motion shall be served on all parties to the action and must be  
81 accompanied by:

82 (1) an affidavit of the applicant stating:

83 (i) whether the applicant has been subject to public discipline in any  
84 jurisdiction, and if so, include a copy of the disposition;

85 (ii) whether the applicant has applied for *pro hac vice* admission in  
86 Minnesota in the preceding two years, and for each such application, the  
87 caption, venue, and file number of the case and whether admission was  
88 allowed; and

89 (iii) whether the applicant has ever been denied *pro hac vice*  
90 admission, or had it revoked, in any jurisdiction, and if so, the  
91 circumstances;

92 (2) a copy of the application submitted under Rule 5.04 along with a copy  
93 of the notice from the Board of Law Examiners confirming good standing.

94 **(b) Withdrawal of Local Counsel.** If the moving attorney is suspended,  
95 disbarred, or ceases to be an attorney of record for such client(s) after admission *pro hac*  
96 *vice* has been granted, another Minnesota lawyer must be promptly substituted and shall  
97 support the applicant's continued admission by motion under this rule.

98 **(c) Fee.** The motion shall be accompanied by the appropriate motion fee, if any.

99 **(d) No Carry-Through on Appeal.** A motion granted in the district court does  
100 not also allow the attorney to appear *pro hac vice* on appeal in the same case in the  
101 Minnesota appellate courts.

102 **(e) Standard.** After confirmation of good standing by the Board of Law  
103 Examiners, the court shall promptly consider the motion for admission *pro hac vice*.  
104 Discretion shall be liberally exercised to grant motions for admission *pro hac vice* unless  
105 the court finds reason to believe that:

106 (1) such admission may be detrimental to the prompt, fair and efficient  
107 administration of justice;

108 (2) such admission may be detrimental to the legitimate interests of parties  
109 other than the client(s) the lawyer proposes to represent;

110 (3) one or more of the clients the lawyer proposes to represent may be at  
111 risk of receiving inadequate representation and cannot adequately appreciate that  
112 risk; or

113                   (4) the applicant has engaged in such frequent appearances as to constitute  
114                   regular practice in this state.

115                   (f) Revocation. Admission to appear as counsel *pro hac vice* in a suit may be  
116                   revoked for any of the reasons in subsection (e) of this rule or rule 5.06, conduct violating  
117                   any applicable rules, or conduct justifying sanctions under the court's inherent power.

118                   **5.06 Subject to Minnesota Rules and Jurisdiction.**

119                   The out-of-state lawyer is subject to all rules that apply to lawyers admitted in  
120                   Minnesota, including rules related to e-filing. Failure of the out-of-state lawyer to  
121                   promptly register for e-filing and designate an email address for receipt of electronic  
122                   service and court notices as required in rule 14.02(a) of the General Rules of Practice for  
123                   the District Courts in the case for which *pro hac vice* admission is granted shall constitute  
124                   grounds for immediate revocation of *pro hac vice* admission. To the extent that  
125                   electronic service on the out-of-state lawyer under rule 14 is unavailable, service of  
126                   documents on the lawyer of record who moved the out-of-state attorney's admission  
127                   under this rule shall constitute notice to and service on the client.

128                   Any lawyer appearing pursuant to this rule is subject to the disciplinary rules and  
129                   regulations governing Minnesota lawyers, including the Minnesota Rules of Professional  
130                   Conduct, and by applying to appear or appearing in any action is subject to the  
131                   jurisdiction of the Minnesota courts.

132  
133  
134                   **Advisory Committee Comment—2020 Amendment**

135                   Rule 5 is substantially revised to provide greater guidance to the trial  
136                   courts and counsel for the consideration of the admission of *pro hac vice*  
137                   counsel. The rule is substantially consistent with the earlier version of the  
138                   rule, but is expanded and the standards for admission as well as the process  
139                   for obtaining leave to participate as *pro hac vice* counsel is established in  
140                   greater detail.

141                   This comment is intended to be comprehensive in scope and essentially  
142                   incorporates the portions of the earlier advisory committee comments to the  
143                   extent they are still applicable. The earlier comments are retained for any  
144                   historic value they may have.

145                   Rule 5.01 sets forth the requirements for admission *pro hac vice*. The  
146                   threshold requirements are that 1) the lawyer to be admitted must be a  
147                   lawyer in good standing in the jurisdiction where the lawyer primarily  
148                   practices; 2) the lawyer is not suspended or disbarred in any jurisdiction;  
149                   and 3) the lawyer pays a \$450 fee to the Minnesota Board of Law

150 Examiners. The application to the board may be made without notice to  
151 other parties in any pending or proposed action. The subsequent motion to  
152 the court must be made with notice to all parties to the action. See Rule 5.

153 The determination that these three requirements are satisfied is  
154 delegated to the Board of Law Examiners. The application process is  
155 established in Rule 5.04.

156 The amended rule establishes precisely when *pro hac vice* admission is  
157 required: whenever a non-admitted lawyer either appears in a proceeding to  
158 argue before the court or is the lawyer signing any pleading or other  
159 document in the case. This standard is consistent with the definition of when  
160 *pro hac vice* admission is required by the appellate courts under Minn. R.  
161 Civ. App. P. 143.05, subd. 1. Rule 5.01(b) is intended to establish a bright-  
162 line standard. Non-admitted lawyers who merely attend hearings, trial, or  
163 other proceedings in a non-speaking role are not required to be admitted *pro*  
164 *hac vice*. Similarly, mere appearance in the signature block of pleadings or  
165 other documents does not require admission.

166 The rule contemplates that the application for and approval of *pro hac*  
167 *vice* admission must be completed before the lawyer may argue or sign  
168 pleadings in a Minnesota action. Rule 5.01(b) recognizes, however, that  
169 judges have the inherent discretion to allow a non-admitted lawyer to appear  
170 on shorter notice when exigent circumstances are present. This rule does  
171 not allow an extended or routine exception to the “apply first, then appear”  
172 rule and is intended to apply only when unusual urgency exists, such as at  
173 the inception of an action where time is short or where temporary injunctive  
174 relief is sought. The court then relies on the Minnesota attorney’s and  
175 proposed *pro hac vice* counsel’s representations that the criteria for  
176 admission are present and that the complete application and motion will be  
177 promptly filed.

178 *Pro hac vice* admission under Rule 5 is intended to be an isolated or  
179 occasional event. Rule 5.02 restates the requirement that if an attorney  
180 maintains an office or other “systematic and continuous presence” in  
181 Minnesota must be admitted to the bar as a Minnesota lawyer.

182 Rule 5.03 contains exceptions to its requirements generally as well as  
183 exceptions to the requirement that an application fee be paid. Rule 5.03(a)  
184 recognizes that other rules specifically exempt non-admitted lawyers from  
185 being required to be admitted in Minnesota or even to commence an action  
186 in the Minnesota courts as provided in Minn. R. Civ. P. 45.06(b). Rule  
187 5.03(b) identifies the only two circumstances that will allow payment of the  
188 fee to be waived: for out-of-state lawyers handling a pro bono case and

189 lawyers representing a governmental entity. The rule provides a specific  
190 definition of what pro bono means—the lawyer must represent a client of  
191 limited means and must do so without expectation of recovering a fee from  
192 any source, including the client or under any fee-shifting statute or rule. The  
193 fee waiver for representation of a governmental entity applies to federal,  
194 state, or local governments or other political subdivisions or agencies.

195 Rule 5 is intended to require an attorney appearing in a case to pay the  
196 application fee once in the case. *Pro hac vice* admission will typically last  
197 for the duration of the case in the district court; separate application to the  
198 appellate courts must be made to appear *pro hac vice* on appeal under Rule  
199 5.05(d). Where a lawyer represents multiple parties in a case or group of  
200 related cases the lawyer is required to pay only one application fee, but must  
201 bring the appropriate motion in each case.

202 Rule 5.04 sets forth the requirements for submitting the application to  
203 the Minnesota Board of Law Examiners. The application must be verified  
204 in the manner required by the Board of Law Examiners. The rule requires  
205 certification of good standing from the single jurisdiction where the lawyer  
206 primarily practices but requires disclosure of any suspension or disbarment  
207 in any jurisdiction. The rule enumerates information required in every  
208 application, but also provides for the requirement of additional information  
209 if requested by the Board of Law Examiners.

210 The actual motion for admission *pro hac vice* is made by an active  
211 member of the Minnesota Bar. That lawyer must have appeared in the case  
212 and be representing the same client or clients. The motion must be served  
213 on all parties and be accompanied by an affidavit from the lawyer to be  
214 admitted setting forth the particular detailed information for the court. Rule  
215 5.05(e) defines the standard for deciding the application for admission. It  
216 recognizes that admission should be liberally granted, but sets forth the  
217 criteria by which the court's discretion might be exercised to deny  
218 admission.

219 Rule 5.05(c) recognizes that a motion filing fee may be required by  
220 statute. *See* Minn. Stat. § 357.021, subd. 2(4). Although documents can be  
221 rejected for filing under R. Civ. P. 5.04(c) only for limited reasons, failure  
222 to tender a required filing fee is one such reason.

223 Rule 5.05(f) underscores that appearance *pro hac vice* is inherently  
224 allowed in the discretion of the court, and is subject to revocation. This is  
225 an important and practical sanction. Rule 5.06 makes it clear that *pro hac*  
226 *vice* lawyers are required to adhere to the Minnesota Rules of Professional  
227 Conduct and any other rules governing the conduct of Minnesota lawyers.

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Rule 5.05(f) also contains an important provision regarding service on *pro hac vice* counsel. Simply put, they are required to register for e-filing and must designate an email address for service of documents upon them in each case. If they fail to do so or service cannot be accomplished via that registered address, they are deemed served by service on the Minnesota lawyer who moved their admission. This provision eliminates any need to serve *pro hac vice* counsel by mail or means other than using the court's e-filing and e-service system.

Rule 5.06 requires that a lawyer admitted *pro hac vice* to register for use of the court's e-filing and e-service system and expressly states that failure of the lawyer to provide a working email address for service on that system will allow revocation of the *pro hac vice* admission. Additionally, the rule makes it unnecessary in that circumstance for other parties to serve the *pro hac vice* lawyer by other means. Thus, the involvement of *pro hac vice* counsel should not increase the burden on other parties to accomplish service.