

THE RULES COMMITTEE ON THE LEGAL PROFESSION SEEKS
COMMENTS FROM THE BENCH, THE BAR AND THE PUBLIC ON THE
PROPOSED AMENDMENT TO THE MISSISSIPPI RULES OF APPELLATE
PROCEDURE.

Comments should be filed with the Clerk of the Supreme Court,
Gartin Justice Building, P.O. Box 249, Jackson, Mississippi 39205-0249.
Deadline: **October 1, 2010**

**RULE 46. ADMISSION, WITHDRAWAL, AND
DISCIPLINE OF ATTORNEYS**

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(b) Admission of Foreign Attorneys Pro Hac Vice.

(1) Terminology

i. “Administrative agency” shall include any agency, department, board or commission of the State of Mississippi, or any county, city, public school district or other political subdivision of the State of Mississippi.

ii. “Appearance” shall include the appending or allowing the appending of the foreign attorney’s name on any pleading or other paper filed or served, or appearing personally before a court or administrative agency or participating in a deposition or other proceeding in which testimony is given. Presentation of uncontested matters to administrative agencies does not constitute appearance as the term is used in this Rule 46(b). Appearance of a foreign attorney shall commence with the first appearance and continue until final determination or until an order permitting the foreign attorney to withdraw has been issued.

iii. “General practice of law” shall be deemed to include, when applied to a foreign attorney, appearances by the foreign attorney in more than five (5) separate unrelated causes or other matters before the courts or administrative agencies of this state within the twelve (12) months immediately preceding the appearance in question.

iv. “Foreign attorney” shall mean an attorney licensed to practice law and in good standing in another state, the District of Columbia, or other

American jurisdiction, but not licensed and in good standing to practice law in Mississippi.

v. “Local attorney” shall mean an attorney who is licensed and in good standing to practice law in Mississippi.

(2) *Appearance of a Foreign Attorney Pro Hac Vice Permitted.* A foreign attorney shall not appear in any cause except as allowed pro hac vice under this Rule 46(b). A foreign attorney who is of good moral character and familiar with the ethics, principles, practices, customs, and usages of the legal profession in this state, may, subject to the provisions of this Rule 46(b), appear as counsel *pro hac vice* in a particular cause before any court or administrative agency in this state upon compliance with the conditions stated in this subdivision.

(3) *Foreign Attorney Appearing Pro Hac Vice Subject to Local Jurisdiction.* A foreign attorney appearing as counsel *pro hac vice* before any court or administrative agency of this state shall be subject to the jurisdiction of the courts of this state in any matter arising out of the attorney's conduct in such proceedings. The foreign attorney shall study and comply with the standards of professional conduct required of members of the Mississippi Bar and shall be subject to the disciplinary jurisdiction of the courts of this state, of the disciplinary tribunals of the Mississippi Bar, and of the Mississippi Board of Bar Admissions with respect to any acts occurring during the course of such appearance. A foreign attorney who has been found in an appropriate disciplinary proceeding to have advertised services in violation of Rule 7.2 of the Mississippi Rules of Professional Conduct, or who is employed by or is a member of a firm which has been so found, shall not be granted leave to appear *pro hac vice* before the courts or administrative agencies of this state.

(4) *Association of Local Attorney.* No foreign attorney may appear *pro hac vice* before any court or administrative agency of this state unless the foreign attorney has associated in that cause a local attorney. The name of the associated local attorney shall appear on all notices, orders, pleadings, and other papers filed in the cause. The local attorney shall personally appear and participate in all trials, and, unless specifically excused from such appearance by the court or administrative agency, in all pretrial conferences, hearings, other proceedings conducted in open court and all depositions or other proceedings in which testimony is given in this state. By associating with a foreign attorney in a particular cause, the local counsel accepts joint and several responsibility with such foreign attorney to the client, to opposing parties and counsel, and to the court or administrative agency in all matters arising from that particular cause.

(5) *Verified Application, Clerk's Statement and Filing Fees.* A foreign attorney desiring to appear *pro hac vice* before any court or administrative agency of this state shall file with the subject court or administrative agency and with the Clerk of the Supreme Court (1) a verified application and (2) a statement obtained from the Clerk of the Supreme Court

indicating all causes or other matters in which the foreign attorney previously requested leave to appear as counsel *pro hac vice* showing the date and disposition of each request. Such application and statement shall be accompanied by a certificate of service on all parties in accordance with the Mississippi Rules of Civil Procedure.

The verified application shall contain the following information:

i. the name of the court or administrative agency before which the foreign attorney desires to appear as counsel *pro hac vice*;

ii. the style of the cause in which the foreign attorney desires to appear;

iii. the full name, residence address, office address, voice and facsimile telephone numbers, and e-mail address, if any, of the foreign attorney;

iv. each jurisdiction in which the foreign attorney has been admitted and the date of admission;

v. a statement that the foreign attorney: (a) does not maintain an office within this state, or that the foreign attorney is a member of a firm which maintains an office or offices within this state which are staffed, full time, by an attorney or attorneys who are licensed to practice in this state and (b) has not engaged in the general practice of law in this state without being properly admitted and licensed to practice law in this state;

vi. a statement that the foreign attorney is currently licensed in good standing to practice law in each jurisdiction in which the foreign attorney has been admitted or, if the foreign attorney is not currently licensed in good standing to practice law in any jurisdiction in which the foreign attorney has previously been admitted, a full explanation of circumstances;

vii. a statement that the foreign attorney is not currently suspended or disbarred by any jurisdiction in which the foreign attorney has been admitted;

viii. a statement of whether or not the foreign attorney has been the subject of disciplinary action by the bar or courts of any jurisdiction during the preceding five (5) years, and, if so, a full explanation of the circumstances;

ix. a statement that the foreign attorney is of good moral character and familiar with the ethics, principles, practices, customs, and usages of the legal profession in this state;

x. the style and number of each cause, including the name of the court or administrative agency, in which the foreign attorney has appeared as counsel pro hac vice within this state within the immediately preceding 12 months, is presently appearing as counsel pro hac vice, or has requested admission to appear as counsel pro hac vice;

xi. a statement that, unless permitted to withdraw by order of the court or administrative agency, the foreign attorney will continue to represent the client in the cause until the final determination of the cause, and that, with reference to all matters incident to such cause, the foreign attorney consents to the jurisdiction of the courts of the State of Mississippi, of the disciplinary tribunals of the Mississippi Bar, and of the Mississippi Board of Bar Admissions in all respects as if the foreign attorney were a regularly admitted and licensed member of the Mississippi Bar;

xii. the name and office address of the member or members in good standing of the Mississippi Bar whom the foreign attorney has associated in the particular cause; and

xiii. the verified application of the foreign attorney for appearance pro hac vice shall also be signed by the associated local attorney, certifying the local attorney's agreement to be associated by the foreign attorney in the particular cause.

Simultaneously with the filing of the application, the foreign attorney shall pay to The Mississippi Bar the sum of ~~\$200~~ \$500 which will be used by the Bar to provide legal services to the indigent, and shall certify to the court or agency and to the Clerk of the Supreme Court that such payment has been made, and shall pay to the Clerk of the Supreme Court the customary miscellaneous docket fee as provided in Miss. Code Ann. § 25-7-3. In cases involving indigent clients, the court or agency may waive the filing fees for good cause shown.

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