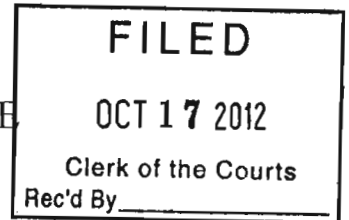


IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE



**IN RE: PROPOSED AMENDMENT TO  
SUPREME COURT RULE 19**

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**No. M2012-01587-SC-RL1-RL - Filed: October 17, 2012**

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**ORDER**

On July 31, 2012, the Board of Professional Responsibility (“the Board”) and the Judges of the Administrative Procedures Division of the office of the Tennessee Secretary of State (“the Division”) jointly filed a petition asking the Court to amend Tenn. Sup. Ct. R. 19 “to require lawyers residing and licensed in states other than Tennessee, who appear as counsel of record before an administrative law judge, hearing officer or other state entity having authority to resolve controversies, to be admitted *pro hac vice*.” The Petitioners attached to the petition an exhibit setting out their proposed revision of Tenn. Sup. Ct. R. 19.

The Court has made no decision as to whether to amend Tenn. Sup. Ct. R. 19 as requested by the Petitioners. The Court, however, has modified the Petitioners’ proposed revision of Tenn. Sup. Ct. R. 19; the modifications are made solely for the purpose of soliciting public comments on the proposal.

The Court hereby solicits written comments on the proposed amendment to Tenn. Sup. Ct. R. 19 from the bench, the bar, and the public. The Petitioners’ proposed revision of Tenn. Sup. Ct. R. 19, as modified by the Court for discussion purposes, is set out in the Appendix to this order. The deadline for submitting written comments is Monday, December 17, 2012. Written comments should be addressed to

Michael W. Catalano, Clerk  
Re: Tenn. Sup. Ct. R. 19  
100 Supreme Court Building  
401 Seventh Avenue North  
Nashville, TN 37219-1407

and should reference the docket number set out above.

The Clerk shall provide a copy of this order to the Petitioners. The Clerk also shall provide a copy of this order to LexisNexis and to Thomson Reuters. This order, including the Appendix, shall be posted on the Court's website.

It is so ORDERED.

PER CURIAM

*APPENDIX*

*(Proposed Amendments to Tenn. Sup. Ct. R. 19:  
additions to current text indicated by underlining, and  
deletions from current text indicated by overstriking)*

1     **Rule 19.     Appearance Pro Hac Vice in ~~the Trial and Appellate Courts of~~**  
2                    **Proceedings Before Tennessee Agencies and Courts by Lawyers Not**  
3                    **Licensed to Practice Law in Tennessee**

4                    A lawyer not licensed to practice law in Tennessee, licensed in another United States  
5 jurisdiction, and who resides outside Tennessee shall be permitted to appear pro hac vice, file  
6 pleadings, motions, briefs, and other papers and to fully participate in a particular proceeding  
7 before a trial or appellate court of Tennessee, or in a contested case proceeding before a state  
8 department, commission, board, or agency (hereinafter “agency”), if the lawyer complies  
9 with the following conditions:

10                   (a) A lawyer not licensed to practice law in Tennessee and who resides outside  
11 Tennessee is eligible for admission pro hac vice in a particular proceeding pending before  
12 a trial or appellate court of Tennessee court or agency of the State of Tennessee:

13                         (1) if the lawyer is licensed, in good standing, and admitted to practice  
14 before the court of last resort in another state or territory of the United States  
15 or the District of Columbia in which the lawyer maintains a residence or an  
16 office for the practice of law;

17                         (2) if the lawyer is in good standing in all other jurisdictions in which  
18 the lawyer is licensed to practice law; and

19                         (3) if the lawyer has been retained by a client to appear in ~~a particular~~  
20 the proceeding pending before that court or agency.

21                   (b) In its discretion, a ~~trial or appellate court~~ state court or agency may, in a particular  
22 proceeding pending before it, deny a lawyer’s motion to appear pro hac vice only where:

23                         (1) the applicant’s conduct as a lawyer, including conduct in  
24 proceedings in Tennessee in which the applicant has appeared pro hac vice and  
25 conduct in other jurisdictions in which the lawyer has practiced, raises  
26 reasonable doubt that the lawyer will comply with the Tennessee Rules of

27 Professional Conduct and other rules and law governing the conduct of  
28 lawyers who appear before the courts and agencies of the State of Tennessee;  
29 or

30 (2) the applicant has engaged in such frequent appearances as to  
31 constitute regular practice in this state.

32 In any proceeding in which a ~~court~~ state court or agency denies a lawyer's motion to  
33 appear pro hac vice, the court or agency shall set forth findings of fact and conclusions of law  
34 that constitute the grounds for its action. In addition, the court or agency shall send a copy  
35 of the order denying the motion to the Board of Professional Responsibility of the Supreme  
36 Court of Tennessee.

37 (c) A lawyer admitted pro hac vice under this Rule may not continue to so appear  
38 unless all requirements of the Rule continue to be met. Admission granted under this Rule  
39 may be revoked by the court or agency granting such admission upon appropriate notice to  
40 the lawyer and upon an affirmative finding by the court or agency that the lawyer has ceased  
41 to satisfy the requirements of this Rule. In any proceeding in which a court or agency revokes  
42 an admission pro hac vice, the court or agency shall set forth findings of fact and conclusions  
43 of law that constitute the grounds for its action; in addition, the court or agency shall send  
44 a copy of the order revoking the admission pro hac vice to the Board of Professional  
45 Responsibility of the Supreme Court of Tennessee.

46 (d) A lawyer seeking admission under this Rule shall file a motion in the court or  
47 agency before which the lawyer seeks to appear not later than the first occasion on which the  
48 lawyer files any pleading or paper with the court or agency or otherwise personally appears.  
49 In support of the motion, the lawyer shall file with the court or agency a certificate of good  
50 standing from the court of last resort of the licensing jurisdiction in which the lawyer  
51 principally practices and an affidavit by the lawyer containing the following information:

52 (1) the lawyer's full name, residence address, office address, any  
53 registration or identifying number associated with the lawyer's licensure in  
54 each jurisdiction in which the lawyer is licensed, the full name or style of the  
55 case in which the lawyer seeks to appear, and the name of the client or clients  
56 the lawyer seeks to represent;

57 (2) the jurisdictions in which the lawyer is or has been licensed to  
58 practice law, with dates of admission, and any other courts before which the  
59 lawyer has been or is generally admitted to practice (including, for example,  
60 membership in the bar of a United States District Court), with dates of

61 admission, and a statement by the lawyer that the lawyer is in good standing  
62 in all other jurisdictions in which the lawyer is licensed to practice law;

63 (3) the full name or style of each case in which the lawyer has been  
64 admitted or sought to be admitted pro hac vice in any ~~trial or appellate~~ court  
65 or agency of the State of Tennessee within the preceding three years, the date  
66 of any such admission or the date of any such motion that was filed but not  
67 granted, and the status of any such case in which the lawyer was admitted;

68 (4) a statement concerning whether the lawyer has been denied  
69 admission pro hac vice or has had an admission pro hac vice revoked by any  
70 court in any jurisdiction and, if so, a full description of the circumstances,  
71 including the full name or style of the case;

72 (5) a statement concerning whether the lawyer has ever been disciplined  
73 or sanctioned by the Board of Professional Responsibility of the Supreme  
74 Court of Tennessee, by any similar lawyer disciplinary agency in any  
75 jurisdiction, or by any similar lawyer disciplinary authority (including, for  
76 example, any United States District Court), and, if so, a full description of the  
77 circumstances, including the full name or style of the matter;

78 (6) a statement concerning whether any disciplinary action or  
79 investigation concerning the lawyer's conduct is pending before the Board of  
80 Professional Responsibility of the Supreme Court of Tennessee, before any  
81 similar lawyer disciplinary agency in any jurisdiction, or before any similar  
82 lawyer disciplinary authority (including, for example, any United States  
83 District Court), and, if so, a full description of the circumstances, including the  
84 full name or style of the matter;

85 (7) a statement that the lawyer is familiar with the Tennessee Rules of  
86 Professional Conduct and the rules governing the proceedings of the court or  
87 agency before which the lawyer seeks to practice;

88 (8) a statement by the lawyer that the lawyer consents to the disciplinary  
89 jurisdiction of the Board of Professional Responsibility of the Supreme Court  
90 of Tennessee and the courts or agencies of Tennessee in any matter arising out  
91 of the lawyer's conduct in the proceeding and that the lawyer agrees to be  
92 bound by the Tennessee Rules of Professional Conduct and any other rules of  
93 conduct applicable to lawyers generally admitted in Tennessee;

94 (9) the name, address, telephone number, and Board of Professional  
95 Responsibility's registration number of a lawyer with whom the lawyer is  
96 associated in accordance with Section (g) of this Rule;

97 (10) a statement that the lawyer has paid all fees required by this Rule  
98 in connection with the motion for admission;

99 (11) at the option of the lawyer, any other information supporting the  
100 lawyer's admission; and

101 (12) a statement indicating service of the motion and all associated  
102 papers upon all counsel of record in the proceeding and upon the Board of  
103 Professional Responsibility of the Supreme Court of Tennessee.

104 (e) A lawyer who seeks or is granted admission under this Rule shall be subject to the  
105 disciplinary jurisdiction of the Board of Professional Responsibility of the Supreme Court  
106 of Tennessee and the courts and agencies of Tennessee in any matter arising out of the  
107 lawyer's conduct in the proceeding.

108 (f) At or before the time the lawyer files a motion for admission and supporting papers  
109 under this Rule with the court or agency before which the lawyer seeks admission, the lawyer  
110 shall file with the Board of Professional Responsibility of the Supreme Court of Tennessee  
111 a copy of the motion and supporting papers filed under this Rule and shall pay to the Board  
112 a fee in an amount the total of which equals the fees required of Tennessee lawyers under  
113 Tennessee Supreme Court Rule 9, Section 20.1, Tennessee Supreme Court Rule 25, Section  
114 2.01, and Tennessee Supreme Court Rule 33.01 C. This fee shall be used for purposes set  
115 forth in these respective Rules, and the Board of Professional Responsibility shall collect and  
116 remit the appropriate portion of any such fee to the Tennessee Lawyers' Fund for Client  
117 Protection and the Tennessee Lawyers Assistance Program. No applicant for admission under  
118 this Rule shall be required to pay more than one total fee in any one calendar year. All fees  
119 under this Rule shall be waived if the lawyer will not charge an attorney's fee in the  
120 proceeding; in such cases, however, the lawyer still must comply with the filing requirement  
121 of this paragraph.

122 (g) A motion for admission pro hac vice under this Rule shall not be granted unless  
123 the lawyer is associated in the proceeding with a lawyer licensed to practice law in  
124 Tennessee, in good standing, admitted to practice before the Supreme Court of Tennessee,  
125 and who resides in and maintains an office in Tennessee. Both the Tennessee lawyer and the  
126 lawyer appearing pro hac vice shall sign all pleadings, motions, and other papers filed or  
127 served in the proceeding; the Tennessee lawyer, or another Tennessee lawyer acting on

128 behalf of the first Tennessee lawyer at his or her request, shall personally appear for all court  
129 or agency proceedings, including all proceedings conducted pursuant to the authority of the  
130 court or agency, unless excused by the court or agency. The court or agency may establish  
131 conditions relating to the participation of associated counsel in an order granting admission  
132 under this Rule or otherwise.

133           **(h)** A trial or intermediate appellate court's denial of a motion to appear pro hac vice  
134 pursuant to paragraph (b), or a trial or intermediate appellate court's revocation of admission  
135 pro hac vice pursuant to paragraph (c), may be appealed pursuant to Rule 10, Tenn. R. App.  
136 P. An agency's denial of a motion to appear pro hac vice pursuant to paragraph (b), or an  
137 agency's revocation of admission pro hac vice pursuant to paragraph (c), may be appealed  
138 by filing a petition for judicial review pursuant to Tenn. Code Ann. § 4-5-322. A lawyer  
139 whose admission pro hac vice is denied or revoked by the Supreme Court of Tennessee may  
140 seek a rehearing on that issue pursuant to Rule 39, Tenn. R. App. P.