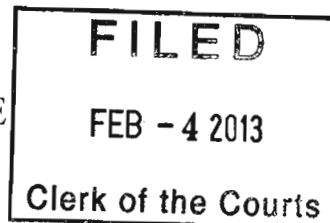


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



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

No. M2012-01587-SC-RL1-RL - Filed: February 4, 2013

ORDER

On July 31, 2012, the Board of Professional Responsibility and the Judges of the Administrative Procedures Division of the office of the Tennessee Secretary of State 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.

On October 16, 2012, the Court filed an order publishing a modified version of the proposed revision of Tenn. Sup. Ct. R. 19 and soliciting public comments on the modified proposal. The public comment period expired on December 17, 2012. The sole comment received by the Court was filed by the Tennessee Bar Association, which stated that it “strongly supports” the adoption of the modified revision of Tenn. Sup. Ct. R. 19.

After due consideration of the petition and the written comment submitted by the Tennessee Bar Association, the Court hereby repeals the current Tenn. Sup. Ct. R. 19 in its entirety and replaces it with the revised rule set out in the appendix to this order, effective upon the filing of this order.

It is so ORDERED.

PER CURIAM

APPENDIX

Revised Tenn. Sup. Ct. R. 19, effective February 4, 2013

Rule 19. Appearance Pro Hac Vice in Proceedings Before Tennessee Agencies and Courts by Lawyers Not Licensed to Practice Law in Tennessee

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

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

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

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

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

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

(1) the applicant’s conduct as a lawyer, including conduct in proceedings in Tennessee in which the applicant has appeared pro hac vice and conduct in other jurisdictions in which the lawyer has practiced, raises reasonable doubt that the lawyer will comply with the Tennessee Rules of Professional Conduct and other rules and law governing the conduct of lawyers who appear before the courts and agencies of the State of Tennessee; or

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

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

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

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

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

(2) the jurisdictions in which the lawyer is or has been licensed to practice law, with dates of admission, and any other courts before which the lawyer has been or is generally admitted to practice (including, for example, membership in the bar of a United States District Court), with dates of admission, and a statement by the lawyer that the lawyer is in good standing in all other jurisdictions in which the lawyer is licensed to practice law;

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

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

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

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

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

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

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

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

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

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

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

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

(g) A motion for admission pro hac vice under this Rule shall not be granted unless the lawyer is associated in the proceeding with a lawyer licensed to practice law in Tennessee, in good standing, admitted to practice before the Supreme Court of Tennessee, and who resides in and maintains an office in Tennessee. Both the Tennessee lawyer and the lawyer appearing pro hac vice shall sign all pleadings, motions, and other papers filed or served in the proceeding; the Tennessee lawyer, or another Tennessee lawyer acting on behalf of the first Tennessee lawyer at his or her request, shall personally appear for all court or agency proceedings, including all proceedings conducted pursuant to the authority of the court or agency, unless excused by the court or agency. The court or agency may establish

conditions relating to the participation of associated counsel in an order granting admission under this Rule or otherwise.

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