

Rule 8.0. Admission pro hac vice. AMENDED

1. (a) General rule. Whenever it shall appear that a person, who has not been lawfully licensed and admitted to the practice of the law in the State of West Virginia, has been duly licensed to be admitted to practice before a court of record of general jurisdiction in any other state or country or in the District of Columbia, and is in good standing as a member of the bar of such jurisdiction, he or she may appear in a particular action, suit, proceeding or other matter in any court of this State or before any judge, tribunal or body of this State upon full compliance with the requirements of this rule, if like courtesy or privilege is extended to members of the West Virginia State Bar in such other jurisdiction. Except in conformity with this rule, members of the Bar of any jurisdiction other than the State of West Virginia may not in this State do any act, or hold themselves out as entitled to do any act, within the definition of the practice of law, as prescribed by the Supreme Court of Appeals of West Virginia.

(b) Admission process. Before such privilege of appearance is granted, the applicant shall provide to the judge, tribunal or other body before which the applicant desires to appear, as well as to The West Virginia State Bar, a verified statement of application for pro hac vice admission listing (1) the action, suit, proceeding or other matter which is the subject of the application; (2) the name, address and telephone number of the registration or disciplinary agency of all state courts, the District of Columbia or of the country in which such person is admitted; (3) the name and address of the member of The West Virginia State Bar who will be a responsible local attorney in the matter; (4) all matters before West Virginia tribunals or bodies in which such person is or has been involved in the preceding 24 months; (5) all matters before West Virginia tribunals or bodies in which any member of the petitioner's firm, partnership, corporation or other operating entity is or has been involved in the preceding 24 months; (6) a representation by the applicant for each State, the District of Columbia or any other country where said applicant has been admitted to practice, stating whether the applicant is in good standing with the bar of every such jurisdiction and that he or she has not been disciplined in any such jurisdiction within the preceding 24 months; (7) an agreement to comply with all laws, rules and regulations of West Virginia state and local governments, where applicable, including taxing authorities and any standards for pro bono civil and criminal indigent defense legal services. A fee of three-hundred fifty dollars (\$350) shall be paid to The West Virginia State Bar for each individual applicant in each individual pro hac vice admission. The fee shall accompany the verified statement of application for pro hac vice admission which is sent to The West Virginia State Bar, and the applicant's motion for pro hac vice admission shall include a verified statement that the fee of three-hundred fifty dollars (\$350) has been paid to The West Virginia State Bar. Separate pro hac vice admission shall be required in every case in which the applicant seeks to act as counsel. For purposes of this rule, each civil action with a case number shall constitute a single case."

(c) Responsible local attorney. The applicant shall be associated with an active member in good standing of the state bar, having an office for the transaction of business within the State of West Virginia, who shall be a responsible local attorney in the action, suit,

proceeding or other matter which is the subject of the application, and service of notices and other papers upon such responsible local attorney shall be binding upon the client and upon such person. The local attorney shall be required to sign all pleadings and affix the attorney's West Virginia State Bar ID number thereto, to attend all hearings, trials or proceedings actually conducted before the judge, tribunal or other body of the State of West Virginia for which the applicant has sought admission pro hac vice. The local attorney shall further attend the taking of depositions and other actions that occur in the proceedings which are not actually conducted before the judge, tribunal or other body of the State of West Virginia for which the applicant has sought admission pro hac vice, and, shall be a responsible attorney in the matter in all other respects. In order to be a "responsible local attorney" the local attorney must maintain an actual physical office equipped to conduct the practice of law in the State of West Virginia, which office is the primary location from which the "responsible local attorney" practices law on a daily basis. The responsible local attorney's agreement to participate in the matter shall be evidenced by the local attorney's endorsement upon the verified statement of application, or by written statement of the local attorney attached to the application.

It shall be the duty of every circuit clerk to reject any pleading or other document tendered for filing in the office of said clerk which is not signed or otherwise executed as required by this rule. Any document filed in violation of this rule may be expunged as a fugitive document; Provided, However, that any party shall have a period of thirty days after notice to comply with this rule by filing a certification with the circuit clerk signed by the responsible local attorney and identifying the pleadings and documents thereby affected."

(d) Grounds for denial. If a complete and truthful statement of application be not filed, or if inquiry by the Court concerning the applicant's admission and ethics in another jurisdiction indicates, or if the applicant's appearances within the State of West Virginia within the past 24 months are numerous or frequent or involve improper conduct, the court or tribunal shall deny such person the continuing privilege of appearance.

(e) Effect of denial. Any pleading filed by a visiting attorney without complying with this section may, after 14 days' written notice mailed to him or her at the address then known to the Clerk of the Circuit Court or other tribunal or body, be stricken from the record.

[As amended by order entered March 1, 1995, effective April 1, 1995; and by order entered February 25, 1998, effective May 1, 1998; by order entered November 26, 2002, effective November 26, 2002.]

Case Notes: This rule's requirement that a pro hac vice sponsor be a member of the State Bar and practice law on a daily basis from an office physically located in West Virginia does not violate the Privilege and Immunities Clause of the United States Constitution as there exists a substantial reason for rigorously regulating the practice of law by lawyers who are not members of the State Bar when appearing in West Virginia pro hac vice; the State must assure not only the integrity and competency of the nonmember lawyers but also their availability, accessibility, and accountability. *Parnell v. Supreme Court of Appeals*, 926 F.

Supp. 570 (N.D.W.Va. 1996), aff'd, 110 F.3d 1077 (4th Cir. 1997). Because subdivision (c) of this rule accords equal treatment to nonresidents and residents, and because nonresidents can qualify as local counsel under this rule, there is no residency classification that requires scrutiny under the privileges and immunities clause. Parnell v. Supreme Court of Appeals, 110 F.3d 1077 (4th Cir. 1997). Even if subdivision (c) of this rule were to amount to an in-state residency requirement, the privileges and immunities protections still do not apply to the activity of sponsoring pro hac vice applicants because that activity is not a fundamental component of the right to practice law, and thus is not a cognizable property right under the Fourteenth Amendment. Parnell v. Supreme Court of Appeals, 110 F.3d 1077 (4th Cir. 1997).