

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Voting: Chief Judge Howell, Judges Sullivan, Kollar-Kotelly, Boasberg, K.B. Jackson, Chutkan, Moss, Mehta, Kelly, McFadden, Friedrich, Hogan, Huvelle and Walton.

ORDER

It is the 22nd day of June 2018 ordered that effective immediately, the underlisted sections of the Local Rules are amended as follows:

[New language underlined]

LCvR 1.1(a) and LCrR 1.1

These Rules govern all proceedings in the United States District Court for the District of Columbia. These Rules supplement the Federal Rules of Civil and Criminal Procedure and shall be construed in harmony therewith. Any reference to State within these Rules shall include the District of Columbia.

LCvR 83.2

PRACTICE BY ATTORNEYS

(a) PRACTICE BY MEMBERS OF THE BAR OF THIS COURT.

An attorney who is a member in good standing of the Bar of this Court may appear, file papers and practice in this Court, provided that the attorney complies with section (b) of this Rule.

(b) APPEARANCE AS SOLE OR LEAD COUNSEL IN A CONTESTED EVIDENTIARY HEARING OR TRIAL ON THE MERITS.

Each attorney who acts as sole or lead counsel in any contested evidentiary hearing or trial on the merits, civil or criminal, must have on file with the Clerk's Office a certificate, in a form prescribed by the Clerk, that the attorney

- (1) has previously acted as sole or lead counsel in a federal district court or the Superior Court of the District of Columbia or a state trial court of general jurisdiction in a contested jury or bench trial or other contested evidentiary hearing in which testimony was taken in open court and an order or other appealable judgment was entered; or

- (2) has participated in a junior capacity in an entire contested jury or bench trial in a federal district court or the Superior Court of the District of Columbia or a state trial court of general jurisdiction; or
- (3) has satisfactorily completed a continuing legal education trial advocacy course of at least 30 hours sponsored by the District of Columbia Bar or accredited by a state bar.

(c) PRACTICE BY NON-MEMBERS OF THE BAR OF THIS COURT.

- (1) An attorney who is a member in good standing of the bar of any United States Court or of the highest court of any State, but who is not a member of the Bar of this Court, may file papers in this Court only if such attorney joins of record a member in good standing of the Bar of this Court. All papers submitted by non-members of the Bar of this Court must be signed by such counsel and by a member of the Bar of this Court joined in compliance with this Rule.
- (2) Paragraph (1) above is not applicable to an attorney who engages in the practice of law from an office located in the District of Columbia. An attorney who engages in the practice of law from an office located in the District of Columbia must be a member of the District of Columbia Bar and the Bar of this Court to file papers in this Court.

(d) PARTICIPATION BY NON-MEMBERS OF THIS COURT'S BAR IN COURT PROCEEDINGS.

An attorney who is not a member of the Bar of this Court may be heard in open court only by permission of the judge to whom the case is assigned, unless otherwise provided by the Federal Rules of Civil Procedure. Any attorney seeking to appear *pro hac vice* must file a motion signed by a sponsoring member of the Bar of this Court, accompanied by a declaration by the non-member that sets forth: (1) the full name of the attorney; (2) the attorney's office address and telephone number; (3) a list of all bars to which the attorney has been admitted; (4) a certification that the attorney either has or has not been disciplined by any bar, and if the attorney has been disciplined by any bar, the circumstances and details of the discipline; (5) the number of times the attorney has been admitted *pro hac vice* in this Court within the last two years; and (6) whether the attorney, if the attorney engages in the practice of law from an office located in the District of Columbia, is a member of the District of Columbia Bar or has an application for membership pending. Each motion must be accompanied by a payment of \$100. Such sums will be deposited in the fund described in LCvR 83.8(f).

(e) ATTORNEYS EMPLOYED BY THE UNITED STATES

An attorney who is employed or retained by the United States or one of its agencies may appear, file papers and practice in this Court on behalf of the United States or that agency irrespective of (c) and (d) above. A government attorney must register and certify personal familiarity with the Local Rules of this Court and, as appropriate, other materials set forth in LCvR 83.8(b) and 83.9(a), prior to the initial appearance by the attorney pursuant to this subsection. A government attorney must submit an updated registration and certification every three years, as requested by the Clerk's Office.

(f) ATTORNEYS EMPLOYED BY A STATE.

A State Attorney General or that official's designee, who is a member in good standing of the bar of the highest court in any State or of any United States Court, may appear and represent the State or any agency thereof, irrespective of (c) and (d) above. A state attorney must register and certify personal familiarity with the Local Rules of this Court and, as appropriate, other materials set forth in LCvR 83.8(b) and 83.9(a), prior to the initial appearance by the attorney pursuant to this subsection. A state attorney must submit an updated registration and certification every three years, as requested by the Clerk's Office.

(g) ATTORNEYS REPRESENTING INDIGENTS.

Notwithstanding (c) and (d) above, an attorney who is a member in good standing of the District of Columbia Bar or who is a member in good standing of the bar of any United States Court or of the highest court of any State may appear, file papers and practice in any case handled without a fee on behalf of indigents upon filing a certificate certifying that the attorney is providing representation without compensation and is personally familiar with the Local Rules of this Court and, as appropriate, the other materials set forth in LCvR 83.8(b) and LCvR 83.9(a).

(h) ENTRY AND WITHDRAWAL OF APPEARANCE.

Attorneys may enter and withdraw appearances in civil actions as provided in LCvR 83.6 of these Rules, and in criminal actions as provided in LCrR 44.5 of these Rules.

(i) STRIKING APPEARANCE FOR NONATTENDANCE AT COURT PROCEEDINGS.

The Court may, upon notice and after affording an opportunity to be heard, strike the appearance of any attorney in a particular case for failure, without adequate cause, to attend any hearing, conference or other proceeding. The fact that an attorney's residence or office is located at a place distant from the District of Columbia does not constitute grounds for rescheduling or failing to attend court proceedings.

(j) — CERTIFICATION BY NON-MEMBERS OF THE BAR OF THIS COURT. —

~~An attorney who appears, files papers and practices in this Court pursuant to (e), (f) or (g) above, shall file certification of personal familiarity with the Local Rules of this Court and, as appropriate, the other materials set forth in Rules LCvR 83.8(b) and LCvR 83.9(a) simultaneously with each initial appearance by the attorney before a judge of this Court.~~

COMMENT TO LCvR 83.2(c)(2): LCvR 83.2(c)(2) has been added to conform the Rules of this Court to the current practice of the District of Columbia Committee on Unauthorized Practice, and to recognize that, as a general matter, attorneys who engage in the practice of law from an office located in the District of Columbia and who file papers in this Court should be a member of the Bar of this Court and the District of Columbia Bar.

COMMENT TO LCvR 83.2(d): The original intent of this rule was that the “submission” by non-members of the Bar seeking pro hac vice admission be provided in the form of a declaration or affidavit as is customary in such circumstances. This section has now been amended to clarify the responsibility of non-members of this Court’s Bar.

COMMENT TO LCvR 83.2(g): The provision under LCvR 83.10 has been deleted to avoid any confusion between this rule and the deleted rule, and to make clear that attorneys can represent parties pro bono without being approved by the Court.

LCrR 44.1

PRACTICE BY ATTORNEYS

(a) PRACTICE BY MEMBERS OF THE BAR OF THIS COURT.

An attorney who is a member in good standing of the Bar of this Court may appear, file papers and practice in this Court, provided that the attorney complies with section (b) of this Rule.

(b) APPEARANCE AS SOLE OR LEAD COUNSEL IN A CONTESTED EVIDENTIARY HEARING OR TRIAL ON THE MERITS.

Each attorney who acts as sole or lead counsel in any contested evidentiary hearing or trial on the merits, civil or criminal, must have on file with the Clerk's office a certificate, in a form prescribed by the Clerk, that the attorney

- (1) has previously acted as sole or lead counsel in a federal district court or the Superior Court of the District of Columbia or a state trial court of general jurisdiction in a contested jury or bench trial or other contested evidentiary hearing in which testimony was taken in open court and an order or other appealable judgment was entered; or

- (2) has participated in a junior capacity in an entire contested jury or bench trial in a federal district court or the Superior Court of the District of Columbia or a state trial court of general jurisdiction; or
- (3) has satisfactorily completed a continuing legal education trial advocacy course of at least 30 hours sponsored by the District of Columbia Bar or accredited by a State Bar.

(c) PRACTICE BY NON-MEMBERS OF THE BAR OF THIS COURT.

- (1) An attorney who is a member in good standing of the bar of any United States Court or of the highest court of any State, but who is not a member of the Bar of this Court, may file papers in this Court only if such attorney joins of record a member in good standing of the Bar of this Court. All papers submitted by non-members of the Bar of this Court must be signed by such counsel and by a member of the Bar of this Court joined in compliance with this Rule.
- (2) Paragraph (1) above is not applicable to an attorney who engages in the practice of law from an office located in the District of Columbia. An attorney who engages in the practice of law from an office located in the District of Columbia must be a member of the District of Columbia Bar and the Bar of this Court to file papers in this Court.

(d) PARTICIPATION BY NON-MEMBERS OF THIS COURT'S BAR IN COURT PROCEEDINGS.

An attorney who is not a member of the Bar of this Court may be heard in open court only by permission of the judge to whom the case is assigned, unless otherwise provided by the Federal Rules of Criminal Procedure. Any attorney seeking to appear *pro hac vice* must file a motion signed by a sponsoring member of the Bar of this Court, accompanied by a declaration by the non-member that sets forth: (1) the full name of the attorney; (2) the attorney's office address and telephone number; (3) a list of all bars to which the attorney has been admitted; (4) a certification that the attorney either has or has not been disciplined by any bar, and if the attorney has been disciplined by any bar, the circumstances and details of the discipline; (5) the number of times the attorney has been admitted *pro hac vice* in this Court within the last two years; and (6) whether the attorney, if the attorney engages in the practice of law from an office located in the District of Columbia, is a member of the District of Columbia Bar or has an application for membership pending. Each motion must be accompanied by a payment of \$100. Such sums will be deposited in the fund described in LCrR 57.21(f).

(e) ATTORNEYS EMPLOYED BY THE UNITED STATES.

An attorney who is employed or retained by the United States or one of its agencies may appear, file papers and practice in this Court on behalf of the United States or that agency, irrespective of (c) and (d) above. A government attorney must register and certify personal familiarity with the Local Rules of this Court and, as appropriate, other materials set forth in LCvR 83.8(b) and 83.9(a), prior to the initial appearance by the attorney pursuant to this subsection. A government attorney must submit an updated registration and certification every

three years, as requested by the Clerk's Office.

(f) ENTRY AND WITHDRAWAL OF APPEARANCE.

Attorneys may enter and withdraw appearances in civil actions as provided in LCvR 83.6 of these Rules, and in criminal actions as provided in LCrR 44.5 of these Rules.

(g) STRIKING APPEARANCE FOR NONATTENDANCE AT COURT PROCEEDINGS.

The Court may, upon notice and after affording an opportunity to be heard, strike the appearance of any attorney in a particular case for failure, without adequate cause, to attend any hearing, conference or other proceeding. The fact that an attorney's residence or office is located at a place distant from the District of Columbia does not constitute grounds for rescheduling or failing to attend court proceedings.

~~(h) CERTIFICATION BY NON-MEMBERS OF THE BAR OF THIS COURT.~~

~~An attorney who appears, files papers and practices in this Court pursuant to (e), (f) or (g) above, shall file certification of personal familiarity with the Local Rules of this Court and, as appropriate, the other materials set forth in LCrR 57.21 and LCrR 57.21.1 simultaneously with each initial appearance by the attorney before a judge of this Court.~~

***COMMENT TO RULE LCrR 44.1(c)(2):** LCrR 44.1(c)(2) has been added to conform the Rule of this Court to the current practice of the District of Columbia Committee on Unauthorized Practice, and to recognize that, as a general matter, attorneys who engage in the practice of law from an office located in the District of Columbia and who file papers in court should be a member of the Bar of this Court and the District of Columbia Bar.*

***COMMENT TO LCrR 44.1(d):** The original intent of this rule was that the "submission" by non-members of the Bar seeking pro hac vice admission be provided in the form of a declaration or affidavit as is customary in such circumstances. This section has now been amended to clarify the responsibility of non-members of this Court's Bar.*

FOR THE COURT:



Beryl A. Howell
Chief Judge