

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**NOTICE OF PROPOSED LOCAL RULE CHANGE
AND OPPORTUNITY TO COMMENT**

Pursuant to Local Civil Rule 1.1(b) and Local Criminal Rule 1.1, the United States District Court for the District of Columbia is publishing for comment a proposed change to one Local Rule.

The proposed rule change, which is set forth below, will be adopted and become effective unless modified or withdrawn by the Court after receiving comments from organized bar associations, members of the bar and public. Such comments must be made in writing with 45 days of the publication of this Notice and should be address to Kevin M. Hodges, Esq., Chairman, Advisory Committee on Local Rules, Williams & Connolly LLP, 725 Twelfth St., N.W. Washington, DC 20005.

Angela D. Caesar, Clerk

[New language is underlined, old language stricken]

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 may, upon written motion, request to appear *pro hac vice* and participate as counsel in a particular case. Such motion shall comply with Paragraph 2 below. Upon granting of the motion by the Court, the attorney is permitted to appear and may participate in the particular case in all respects.
- (2) 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. The motion must be accompanied by a certificate of the court or bar for the state in which the applicant regularly practices, which has been issued within thirty (30) days of filing and states that the applicant is a member in good standing of the bar of that state court. Each motion must be accompanied by a payment of \$100. Such sums will be deposited in the fund described in LCvR 83.8(f).

(d) 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.

(e) 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.

(f) 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 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).

(g) 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.

(h) 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.

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

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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 may, upon written motion, request to appear *pro hac vice* and participate as counsel in a particular case. Such motion shall comply with Paragraph 2 below. Upon granting of the motion by the Court,

the attorney is permitted to appear and may participate in the particular case in all respects.

(2) 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. The motion must be accompanied by a certificate of the court or bar for the state in which the applicant regularly practices, which has been issued within thirty (30) days of filing and states that the applicant is a member in good standing of the bar of that state court. Each motion must be accompanied by a payment of \$100. Such sums will be deposited in the fund described in LCrR 57.21(f).

(3) 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 appear and participate in a case in this Court, unless such attorney has submitted an application for admission to the District of Columbia Bar and such application is pending.

(d) ATTORNEYS EMPLOYED BY THE UNITED STATES.

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(f) 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.

***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.*