

NOTICE OF PUBLIC HEARING

THURSDAY, OCTOBER 30, 2003 AT 9:30 A.M.

**IN RE: PROPOSED NEW ARTICLE 11, RULE 9
(PRO HAC VICE AND IN-HOUSE COUNSEL)**

Supreme Court

In Re Proposed New Article II, Rule 9 :
(Pro Hac Vice and In-house Counsel) :

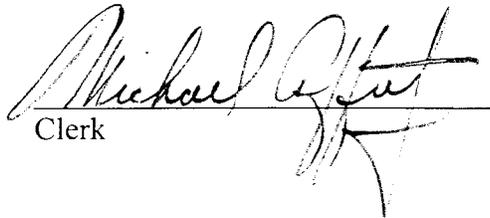
ORDER

On March 25, 2002, this Court held a public hearing on the report and recommendations of our Ad Hoc Committee to Review Article II, Rule 9 (sometimes herein referred to as Rule 9) of the Supreme Court Rules relating to pro hac vice admissions. The Court has now prepared a proposed new Rule 9 governing such admissions and also providing for the registration of in-house counsel. Prior to our adoption of this rule, however, we deem it prudent to once again solicit comment from the bench and bar.

Accordingly, proposed new Article II, Rule 9 is assigned for hearing to *Thursday, October 30, 2003*, at 9:30 a.m. Interested persons may register with the Supreme Court clerk prior to the hearing date to present oral comment thereon. Written comment should be submitted on or before *Tuesday, October 28, 2003*. Copies of the proposed new pro hac vice rule will be available in the Supreme Court clerk's office.

Entered as an Order of this Court this *18th* day of *September 2003*.

By Order,


Clerk

Draft Amendments to Art. II, Rule 9

(admission pro hac vice)

I. Art. II, Rule 9

Rule 9. Nonresident attorneys – In-house counsel – Senior law students. – (a) *Pro Hac Vice Admissions.* Any attorney who is a member in good standing of the bar of any other state, not resident in this state, may, upon special and infrequent occasion and for good cause shown upon written motion presented by a member of the bar of this state, be permitted in the discretion of this Court, or such other court to which authority is delegated, to participate to such an extent as the court may prescribe in the presentation of a cause or appeal in this or any court, tribunal, commission, board, or agency in this state; provided, however, that (a) in no instance shall a nonresident attorney be permitted to appear pro hac vice in more than three (3) cases or other proceedings in the State of Rhode Island within the five (5) year period preceding the filing of the motion unless he or she has first sought and obtained permission to do so from this Court upon showing good cause why the above-specified limitation of three (3) appearances in five (5) years should be waived for the case(s) or proceeding(s) in question; (b) a member of the bar of this state must sign all pleadings, briefs, and other papers filed with the court, tribunal, commission, board, or agency, and assume full responsibility for them and for the conduct of the cause and of the attorney to whom such privilege is accorded; and (c) the sponsoring attorney shall sign the motion, and the attorney seeking pro hac vice admission and the client who will be represented by pro hac vice counsel shall sign certifications in support of the motion, in substantially the form appended hereto as Exhibits 1-A, 1-B, and 1-C, respectively. The nonresident attorney shall, in his or her certification accompanying the motion, indicate the number of times he or she has, within the five (5) years preceding the filing of the motion,

appeared pro hac vice in a case or other proceeding in the State of Rhode Island, identifying the other cases or proceedings in which he or she has been admitted pro hac vice.

Good cause for according such privilege shall be limited to facts or circumstances affecting the personal or financial welfare of the client and not the attorney. Such facts may include but are not limited to the following: (a) a showing that the cause involves a complex field of law in which the nonresident attorney is a specialist, (b) a long-standing attorney-client relationship, (c) lack of local counsel with expertise in the field involved, (d) the existence of legal questions involving the law of a foreign jurisdiction, (e) the need for extensive discovery proceedings in a foreign jurisdiction.

Subject to the provisions of this rule and to their adoption and approval of an administrative rule and forms relating to pro hac vice admission in substantial accord with the sample uniform rule and forms that are appended as exhibits to these rules, the following courts are delegated the authority to permit nonresident attorneys to participate in causes or appeals before them: the superior court, the family court, the district court, and the workers' compensation court. Nonresident attorneys who seek permission to participate before a state tribunal, commission, board or agency, or municipal court, commission, board, or agency shall file a miscellaneous petition or a motion for admission pro hac vice before the court to which an appeal is taken from that court, tribunal, commission, board, or agency.

A separate motion or miscellaneous petition and filing fee shall be required of each attorney seeking pro hac vice admission, except where such admission is sought to represent a party in respect to a prior pending action, appeal, or other proceeding in the court from which admission pro hac vice is sought, in which event the motion may be filed within that action, appeal, or other proceeding without the necessity of any additional filing fee.

(b) Registration of In-House Counsel. An attorney who is employed by a corporation or other entity at an office in this state, and who is a member in good standing of the bar of any other state but is not a member of the bar of this state, shall register with the this Court as an “in-house counsel.” An in-house counsel shall be subject to Articles III (Disciplinary Procedures), IV (Periodic Registration of Attorneys and Mandatory Continuing legal Education Regulations) and V (Rules of Professional Conduct) of these rules. An in-house counsel shall be permitted to practice law in this state but only on behalf of the corporation or other entity by which the in-house counsel is employed, its directors, officers, and employees in their respective official or employment capacities, and/or its commonly owned or controlled organizational affiliates, except that an in-house counsel shall not appear in the courts of this state, and shall not appear in any agency or municipal proceeding that the attorney has reason to believe prior to the proceeding is contested unless the attorney is admitted pro hac vice pursuant to subsection (a) and any provisional orders of this Court.

Exhibit 9-1

Sample Uniform Rule for Pro Hac Vice Admission

Out of State Counsel. No person, who is not an attorney and counselor of the Supreme Court of the State of Rhode Island, shall be permitted to act as attorney or counselor for any party in any proceeding, hearing or trial in the [] Court unless granted leave to do so by the [] Court or by the Supreme Court. Unless the [] Court or the Supreme Court permits otherwise, any attorney who is granted such leave to practice before the [] Court shall not engage in any proceeding, hearing, or trial therein unless there is present in the courtroom for the duration of the proceeding, hearing, or trial a member of the bar of Rhode Island who shall be prepared to continue with the proceeding, hearing or trial in the absence of counsel who has been so granted leave.

Subject to the limitations set forth in Article II, Rule 9 of the Supreme Court Rules for the Admission of Attorneys and Others to Practice Law, leave shall be granted by the [] Court in its discretion upon motion signed by the movant in a form approved by the court (Exhibit 9-A), supported by certifications of the attorney seeking admission pro hac vice and of Rhode Island associate counsel (Exhibit 9-B), and assented to by the party being represented in a client certification (Exhibit 9-C).

Exhibit 9-A

STATE OF RHODE ISLAND
, SC

[] COURT

v.

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:
:
:

C.A. No.

MOTION FOR ADMISSION PRO HAC VICE

[Movant] _____ hereby moves that _____
be admitted pro hac vice in the above-case/agency proceeding as associate trial counsel with
local associate counsel identified below, on the following grounds [Please check appropriate
grounds and provide specifics]:

The case/agency proceeding involves the following complex areas of the law, in which
pro hac vice counsel concentrates:

Pro hac vice counsel’s long-standing representation of the client:

The local trial bar lacks experience in the field of:

The case/agency proceeding involves complex legal questions under the law of a foreign
jurisdiction with which pro hac vice counsel is familiar, specifically:

The case/agency proceeding requires extensive discovery in a foreign jurisdiction
convenient to pro hac vice counsel, as follows:

It is a criminal case, and pro hac vice counsel is defendant’s counsel of choice.

Other: _____

I hereby represent that I am a member in good standing of the bar of the State of Rhode Island and that I am actively engaged in the practice of law out of an office located in this state.

Attorney for: _____

Dated: _____

Pro Hac Vice Counsel

CERTIFICATE OF SERVICE

I, _____, hereby certify that a true copy of the within motion for admission pro hac vice with accompanying attorney and client certifications were sent postage prepaid to _____, on this ____ day of _____, 200_.

Exhibit 9-B

STATE OF RHODE ISLAND
, SC

[] COURT

v.

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:
:

C.A. No.

ATTORNEY CERTIFICATION FOR PRO HAC VICE ADMISSION

1. I certify that I am a member in good standing of the bar of the State(s) of _____, without any restriction on my eligibility to practice, and that I understand my obligation to notify this Court immediately of any change respecting my status in this respect.

2. Within the preceding sixty (60) months, I was or am currently admitted pro hac vice, or have applied to be admitted pro hac vice, in the following cases or proceedings in this State:

3. I have read, acknowledge, and agree to observe and to be bound by the local rules and orders of this Court, including the Rules of Professional Conduct of the Rhode Island Supreme Court, as the standard of conduct for all attorneys appearing before it.

4. I acknowledge that if specially admitted to appear in the above-entitled matter that I will be subject to the disciplinary procedures of the Rhode Island Supreme Court. I hereby authorize the disciplinary authorities of the bar of the State(s) of _____ to release any information concerning my practice in said State(s) pursuant to the request of the Disciplinary Counsel of the Rhode Island Supreme Court.

5. For purposes of this case I have associated with local associate counsel identified below, and have read, acknowledge, and will observe the requirements of this Court respecting the participation of local associate counsel, recognizing that failure to do so may result in my being disqualified, either upon the Court's motion or motion of other parties in the case.

Signature

Name

Firm Name

Business Address

CERTIFICATION OF LOCAL ASSOCIATE COUNSEL

I certify that I have read and join in the foregoing Certification, and acknowledge and agree to observe the requirements of this Court as related to the participation and responsibilities of local associate counsel.

Signature

Local Associate Counsel
RI Bar ID #

Firm Name

Business Address

Exhibit 9-C

CLIENT CERTIFICATION

I, _____, certify that:

1. I am the plaintiff/defendant or an authorized representative of a corporate or business entity which is the plaintiff/defendant in this case;
2. I am aware that Attorney _____, is not a member of the Rhode Island bar, but that he/she has applied for permission to appear in this case on my behalf;
3. I am also aware that, if Attorney _____ is permitted to appear in this case, I will also be required to engage as co-counsel and pay for the services of a lawyer who is a member of the Rhode Island bar;
4. I am also aware that the Rhode Island lawyer engaged must be fully prepared to assume complete responsibility for the case at any time, and may be required to conduct the trial/hearing/appeal in this case on my behalf (or on behalf of the corporate or business entity);
5. Having been advised of the matters set forth above, I support the request of Attorney _____ to be permitted to appear in this case on my behalf (or on behalf of the corporate or business entity), in accordance with the rules of this Court and of the Supreme Court of the State of Rhode Island.

Witness

Signature

Print Name

Date