

# SUPREME COURT OF GEORGIA

Atlanta    October 5, 2005

The Honorable Supreme Court met pursuant to adjournment.  
The following order was passed:

It is ordered that Uniform Superior Court Rules are hereby amended to add a new Rule 4.4 regarding Admission *Pro Hac Vice* and to amend Rule 4.11 involving attorneys appearance at court, both to read as follows:

## Rule 4.4 Admission Pro Hac Vice

### A. Definitions

1. A “Domestic Lawyer” is a person not admitted to practice law in this state but who is admitted in another state or territory of the United States or of the District of Columbia and not disbarred or suspended from practice in any jurisdiction.
2. A Domestic Lawyer is “eligible” for admission *pro hac vice* if that lawyer:
  - a. lawfully practices solely on behalf of the lawyer’s employer and its commonly owned organizational affiliates, regardless of where such lawyer may reside or work; or
  - b. neither resides nor is regularly employed at an office in this state; or
  - c. resides in this state but (i) lawfully practices from offices in one or more other states and (ii) practices no more than temporarily in this state, whether pursuant to admission *pro hac vice* or in other lawful ways.
3. A “client” is a person or entity for whom the Domestic Lawyer has rendered services or by whom the lawyer has been retained prior to the lawyer’s performance of services in this state.
4. “This state” refers to Georgia. This Rule does not govern proceedings before a federal court or federal agency located in this state unless that body adopts or incorporates this Rule.

### B. Authority of Court To Permit Appearance By Domestic Lawyer

1. Court Proceeding. A court of this state may, in its discretion, admit an eligible Domestic Lawyer retained to appear in a particular proceeding pending before such court to appear *pro*

*hac vice* as counsel in that proceeding.

- C. In-State Lawyer's Duties. When a Domestic Lawyer appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the in-state lawyer, or in an advisory or consultative role, the in-state lawyer who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the in-state lawyer to advise the client of the in-state lawyer's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the Domestic Lawyer.
- D. Application Procedure
1. Verified Application. An eligible Domestic Lawyer seeking to appear in a proceeding pending in this state as counsel *pro hac vice* shall file a verified application with the court where the litigation is filed. The application shall be served on all parties who have appeared in the case and the Office of General Counsel of the State Bar of Georgia. The application shall include proof of service. The court has the discretion to grant or deny the application summarily if there is no opposition.
  2. Objection to Application. The Office of General Counsel of the State Bar of Georgia or a party to the proceeding may file an objection to the application or seek the court's imposition of conditions to its being granted. The Office of General Counsel or objecting party must file with its objection a verified affidavit containing or describing information establishing a factual basis for the objection. The Office of General Counsel or objecting party may seek denial of the application or modification of it. If the application has already been granted, the Office of General Counsel or objecting party may move that the *pro hac vice* admission be withdrawn.
  3. Standard for Admission and Revocation of Admission. The court has discretion as to whether to grant applications for admission *pro hac vice* and to set the terms and conditions of such admission. An application ordinarily should be granted unless the court or agency finds reason to believe that such admission:
    - a. may be detrimental to the prompt, fair and efficient administration of justice,
    - b. may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent,

- c. one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk,
  - d. the applicant has engaged in such frequent appearances as to constitute regular practice in this state, or
  - e. should be denied, if that applicant had, prior to the application, filed or appeared in an action in the courts of this State without having secured approval pursuant to the Uniform Superior Court Rules.
4. Revocation of Admission. Admission to appear as counsel *pro hac vice* in a proceeding may be revoked for any of the reasons listed in Section D.3 above.

E. Application

1. Required Information. An application shall state the information listed on Appendix A to this rule. The applicant may also include any other matters supporting admission *pro hac vice*.
2. Application Fee. An applicant for permission to appear as counsel *pro hac vice* under this Rule shall pay a non-refundable fee as set by the Investigative Panel of the State Bar of Georgia at the time of filing the application.
3. Exemption for *Pro Bono* Representation. An applicant shall not be required to pay the fee established by E.2 above if the applicant will not charge an attorney fee to the client(s) and is:
  - a. employed or associated with a *pro bono* project or nonprofit legal services organization in a civil case involving the client(s) of such programs; or
  - b. involved in a criminal case or a *habeas* proceeding for an indigent defendant.

F. Authority of the Office of General Counsel of the State Bar of Georgia and Court: Application of Ethical Rules, Discipline, Contempt, and Sanctions

1. Authority over Domestic Lawyer and Applicant.
  - a. During pendency of an application for admission *pro hac vice* and upon the granting of such application, a Domestic Lawyer submits to the authority of the courts and the Office of General Counsel of the State Bar of Georgia of this state for all conduct relating in any way to the proceeding in which the Domestic Lawyer seeks to appear. The applicant or Domestic Lawyer who has obtained *pro hac vice* admission in a proceeding submits to this authority for all that lawyer's conduct (i) within the state while the

proceeding is pending or (ii) arising out of or relating to the application or the proceeding. An applicant or Domestic Lawyer who has *pro hac vice* authority for a proceeding may be disciplined in the same manner as an in-state lawyer.

- b. The court's and Office General Counsel's authority includes, without limitation, the court's and State Bar of Georgia's rules of professional conduct, contempt and sanctions orders, local court rules, and court policies and procedures.
2. Familiarity With Rules. An applicant shall become familiar with the Georgia Rules of Professional Conduct, local court rules, and policies and procedures of the court before which the applicant seeks to practice.
- G. Temporary Practice. An out-of-state lawyer will only be eligible for admission *pro hac vice*, or to practice in another lawful way only on a temporary basis.
- H. The conflicts of the domestic lawyer shall not delay any deadlines, depositions, mediation, hearings, or trials in connection with the case for which admission has been granted.

## APPENDIX A

The Domestic Lawyer's application shall include:

1. the applicant's residence and business address;
2. the name, address and phone number of each client sought to be represented;
3. the courts before which applicant has been admitted to practice and the respective period(s) of admission;
4. whether the applicant (a) has been denied admission *pro hac vice* in this state, (b) had admission *pro hac vice* revoked in this state, or (c) has otherwise formally been disciplined or sanctioned by any court in this state. If so, specify the nature of the allegations; the name of the authority bringing such proceedings; the caption of the proceedings, the date filed, and what findings were made and what action was taken in connection with those proceedings;
5. whether any formal, written disciplinary proceeding has ever been brought against the applicant by a disciplinary authority in any other jurisdiction within the last five (5) years and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;
6. whether the applicant has been held formally in contempt or otherwise sanctioned by any court in a written order in the last five (5) years for disobedience to its rules or orders, and, if so: the nature of the allegations; the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings (a copy of the written order or transcript of the oral rulings shall be attached to the application);
7. the name and address of each court or agency and a full identification of each proceeding in which the applicant has filed an application to appear *pro hac vice* in this state within the preceding two years; the date of each application; and the outcome of the application;
8. an averment as to the applicant's familiarity with the Georgia Rules of Professional Conduct, local rules and court procedures of the court before which the applicant seeks to practice; and
9. the name, address, telephone number and bar number of an active member in good standing of the bar of this state who will sponsor the applicant's *pro hac vice* request. The bar member shall appear of record together with the Domestic Lawyer.

The Domestic Lawyer's application may provide the following optional information

10. the applicant's prior or continuing representation in other matters of one or more of the clients the applicant proposes to represent and any relationship between such other matter(s) and the proceeding for which applicant seeks admission.
11. any special experience, expertise, or other factor deemed to make it particularly desirable that the applicant be permitted to represent the client(s) the applicant proposes to represent in the particular cause.

Rule 4.11 Attorneys: Appearance, withdrawal and duties; to attend and remain

Subject to the provisions of Rule 17, attorneys having matters on calendars, or who are otherwise directed to do so, unless excused by the court, are required to be in court at the call of the matter and to remain until otherwise directed by the court. Should the judge excuse counsel from the courtroom before the matter is concluded such attorney(s) shall return as directed. So that the court can provide timely direction, counsel shall contact the trial court daily during the remainder of any ongoing calendar. Failure of any attorney in this respect shall subject that attorney to the contempt powers of the court.