

The Supreme Court of South Carolina

RE: Amendment to Rule 404, SCACR

ORDER

In In re Unauthorized Practice of Law Rules Proposed by the South Carolina Bar, 309 S.C. 304, 422 S.E.2d 123 (1992), this Court left it to the administrative agencies to determine under what conditions they would allow attorneys licensed in other states to appear before them. This result was consistent with our rule at the time that left it up to each court to determine if a *pro hac vice* admission would be allowed.

Since that time, this Court has amended Rule 404, SCACR, to place limits on *pro hac vice* admissions and to establish a uniform procedure for seeking *pro hac vice* admissions to include a standardized application form. Under the current procedure, a copy of the application is provided to this Court, and this allows this Court to monitor the extent and circumstances in which *pro hac vice* admissions are being sought so it can determine if further regulation is necessary. Additionally, the current rule requires the attorney seeking *pro hac vice* to associate a South Carolina lawyer, to agree

to be bound by the South Carolina Rules of Professional Conduct and to be subject to the disciplinary authority of this Court for any unethical conduct.

We see no reason why the same requirements and restrictions should not be placed on attorneys seeking to be admitted *pro hac vice* in a contested case before the South Carolina Administrative Law Court or a South Carolina agency. Accordingly, Rule 404, SCACR, is amended as shown in the attached. This amended rule shall become effective March 1, 2005.

IT IS SO ORDERED.

<u>s/Jean H. Toal</u>	C.J.
<u>s/James E. Moore</u>	J.
<u>s/John H. Waller, Jr.</u>	J.
<u>s/E. C. Burnett, III</u>	J.
<u>s/Costa M. Pleicones</u>	J.

Columbia, South Carolina

January 6, 2005

RULE 404
ADMISSION PRO HAC VICE

(a) Admission; Tribunal Defined. Upon written application, an attorney who is not admitted to practice law in South Carolina and who is admitted and authorized to practice law in the highest court of another state or the District of Columbia may appear *pro hac vice* in any action or proceeding before a ~~court~~ tribunal of this state if an attorney admitted to practice law in South Carolina is associated as attorney of record. For the purpose of this rule, a “tribunal” includes any court of this state, and the South Carolina Administrative Law Court and any South Carolina agency authorized to hear and determine contested cases as defined under S.C. Code Ann. § 1-23-310.

(b) Prohibitions on Admission. An attorney may not appear *pro hac vice* if the attorney is a resident of South Carolina, is regularly employed in South Carolina, or is regularly engaged in the practice of law or in substantial business or professional activities in South Carolina, unless the attorney has filed an application for admission under Rule 402, SCACR.

(c) Application for Admission. An attorney desiring to appear *pro hac vice* shall file with the ~~court~~ tribunal in which the matter is pending, prior to making an appearance, an Application for Admission *Pro Hac Vice* which contains the following information:

- (1) the applicant's residence and office addresses;
- (2) the state and federal courts to which the applicant has been admitted to practice and the dates of admission;
- (3) whether the applicant is a member in good standing in those courts, and a certificate of good standing of the Bar of the highest court of the state or the District of Columbia where the applicant regularly practices law;
- (4) whether the applicant is currently suspended or disbarred in any court, and if so, a description of the circumstances under which the suspension or disbarment occurred;

(5) whether the applicant has been formally notified of any complaints pending before a disciplinary agency in any other jurisdiction and, if so, provide a detailed description of the nature and status of any pending disciplinary complaints;

(6) an identification of all law firms with which the applicant is associated and a description of all the applicant's pending *pro hac vice* appearances in South Carolina to include the name and address of the tribunal;

(7) the names of each case or proceeding in South Carolina in which the applicant has filed an application to appear as counsel *pro hac vice*, the name and address of the tribunal, the date of each application, and whether it was granted;

(8) the name, address, and telephone number of the active member(s) of the South Carolina Bar who is (are) the attorney(s) of record; and

(9) an affirmation that the applicant will comply with the applicable statutes, law and procedural rules of the State of South Carolina; be familiar with and comply with the South Carolina Rules of Professional Conduct; and submit to the jurisdiction of the South Carolina courts and the South Carolina disciplinary process.

The ~~court~~ tribunal in its discretion may order a hearing on the application and shall enter an order granting or refusing the application. If the application is refused, the ~~court~~ tribunal shall state its reasons.

(d) Fee; Record of Appearances. Each time an application under this rule is made, the attorney seeking to appear *pro hac vice* shall provide a copy of the application to the South Carolina Supreme Court Office of Bar Admissions accompanied by a \$100 fee. Upon receipt of the application, the Clerk of the South Carolina Supreme Court shall certify to the ~~court~~ tribunal in which a *pro hac vice* appearance has been requested that the fee has been received. The Office of Bar Admissions

shall maintain a record of all *pro hac vice* applications as a public record.

(e) Conduct of Attorney Appearing *Pro Hac Vice*. An attorney appearing *pro hac vice* is subject to the jurisdiction of the South Carolina courts with respect to South Carolina law governing the conduct of attorneys to the same extent as an attorney admitted to practice law in this state. The attorney shall comply with the South Carolina Rules of Professional Conduct and is subject to the disciplinary jurisdiction of the Supreme Court of South Carolina. The ~~court~~ tribunal in which an attorney is appearing *pro hac vice* or the Supreme Court of South Carolina may, for violations of South Carolina law, the South Carolina Rules of Professional Conduct, or orders of the ~~court~~ tribunal, withdraw its permission for an attorney to appear *pro hac vice*.

(f) Responsibilities of Attorney of Record. The South Carolina attorney of record shall at all times be prepared to go forward with the case; sign all papers subsequently filed; and attend all subsequent proceedings in the ~~action~~ matter, unless the ~~court~~ tribunal specifically excuses the South Carolina attorney of record from attendance.