

**SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE**

Proposed Recommendation No. 211

**Promulgation of New Rule 1012.1 Governing
Motions for Admission *Pro Hac Vice***

The Civil Procedural Rules Committee proposes that the new Rule of Civil Procedure 1012.1 governing motions for admission *pro hac vice* be promulgated, as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than **March 1, 2006** to:

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**or E-Mail to
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The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Rule 1012.1. Admission Pro Hac Vice. Motion. Content

(a) As used in this rule,

“candidate” means an attorney who is not admitted to the bar of the Commonwealth of Pennsylvania, but is admitted to the bar of and authorized to practice law in the highest court of another state or foreign jurisdiction and seeks admission *pro hac vice*;

Note: Pa.B.A.R. 301 states that the attorney seeking admission *pro hac vice* cannot act as the attorney of record.

“sponsor” means an attorney who is admitted to the bar of the Commonwealth of Pennsylvania and moves for the admission of a candidate *pro hac vice*.

(b) The sponsor shall file a written motion for admission *pro hac vice* in the action for which admission is sought. The verifications required by subdivisions (c) and (d)(2) shall be attached to the motion.

(c) A candidate shall submit a verified statement

(1) identifying the jurisdictions in which he or she is or has been licensed and the corresponding bar license numbers. With respect to each jurisdiction identified, the candidate shall state whether he or she

(i) is or has ever been suspended, disbarred, or otherwise disciplined. The candidate shall provide a description of the circumstances for each occurrence of suspension, disbarment or other disciplinary action,

(ii) is subject to any disciplinary proceedings. The candidate shall provide a description of the circumstances under which the disciplinary action has been brought,

(2) setting forth the number of pending actions in all courts of record in Pennsylvania in which the candidate has applied for admission *pro hac vice*, and the number of actions in which the motion has been denied. If any motion for admission *pro hac vice* has been denied, the candidate shall list the caption, court and docket number of the action, and describe the reasons for the denial of the motion.

(3) stating that he or she shall comply with and be bound by the applicable statutes, case law and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct,

(4) stating that he or she shall submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during the appearance in the matter for which admission *pro hac vice* is being sought,

(5) stating that he or she has consented to the appointment of the sponsor as the agent upon whom service of process shall be made for all actions, including disciplinary actions, that may arise out of the practice of law in the matter for which admission *pro hac vice* is sought.

(d)(1) The sponsor shall enter an appearance as attorney of record in the action on behalf of the party who the candidate seeks to represent. Upon the motion being granted, the sponsor, shall remain the attorney of record for that party, and shall sign and serve, or be served with as the case may be, all notices, orders, pleadings or other papers filed in the action, and shall attend all proceedings before the court unless excused by order of court. Attendance of the sponsor at a deposition in discovery shall not be required unless ordered by the court.

(2) The sponsor shall submit a verified statement

(i) stating that after reasonable investigation, he or she reasonably believes the candidate to be a reputable and competent attorney and is in a position to recommend the candidate's admission,

(ii) setting forth the number of cases in all courts of record in this Commonwealth in which he or she is acting as the sponsor of a candidate for admission *pro hac vice*, and

(iii) stating that all proceeds from the settlement of a cause of action in which a candidate is granted admission *pro hac vice* shall be distributed in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct.

Note: Settlement funds must be placed in an interest-bearing checking account as required by the Rules of Professional Conduct for the purposes of IOLTA.

(e) The court shall grant the motion unless the court, in its discretion, finds good cause for denial.

Note: Good cause may include one or more of the following grounds:

(1) the admission may be detrimental to the prompt, fair and efficient administration of justice,

(2) the admission may be detrimental to legitimate interests of the parties to the proceedings other than the client who the candidate proposes to represent,

(3) the client who the candidate proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk,

(4) the candidate is not competent or ethically fit to practice law,

(5) the candidate is, in effect, practicing as a Pennsylvania attorney, in light of the nature and extent of the activities of the candidate in the Commonwealth, without complying with the Pennsylvania requirements for the admission to the bar. The court may weigh the number of other admissions to practice sought and/or obtained by the candidate from Pennsylvania courts, the question of whether or not the candidate maintains an office in Pennsylvania although the candidate is not admitted to practice in Pennsylvania courts, and other relevant factors,

(6) the number of cases in all courts of record in this Commonwealth in which the Pennsylvania attorney is acting as the sponsor prohibits the adequate supervision of the candidate,

(7) failure to comply with this rule, or

(8) any other reason the court, in its discretion, deems appropriate.

(f) The court may revoke an admission *pro hac vice sua sponte* or upon the motion of a party, if it determines, after a hearing or other meaningful opportunity to respond, the continued admission *pro hac vice* is inappropriate or inadvisable.

Explanatory Comment

The Civil Procedural Rules Committee is proposing the promulgation of new Rule 1012.1 governing admission of an attorney *pro hac vice*. The proposed rule achieves a uniform statewide practice, provides information and guidance to the court in the evaluation of a motion for such an admission, and imposes obligations upon both the attorney seeking admission and the attorney sponsoring the admission.

Pennsylvania Bar Admission Rule 301 authorizes a court to grant admission *pro hac vice* to an applicant attorney provided that there is a Pennsylvania attorney who has agreed to act as the attorney of record. Procedurally, Rule 301 requires written notice of the motion to be signed by the attorney of record, to recite all relevant facts, and to be filed with the clerk of court or magisterial district judge office in which the matter is pending. New Rule 1012.1 supplements the Bar Admission rule by requiring the motion to provide the court with certain information regarding both the applicant attorney and the attorney of record.

Subdivision (a) of Rule 1012.1 designates the applicant attorney requesting admission *pro hac vice* as a “candidate” and the Pennsylvania attorney of record as a “sponsor.”

Subdivision (b) requires the sponsor to file the motion for admission *pro hac vice* in the action in which admission is sought. The motion must include verified statements from both the candidate and the sponsor.

Subdivision (c) of the proposed rule governs the requirements of the candidate’s verification. One purpose of this verification is to gather relevant information regarding the candidate’s disciplinary history, if any, in all jurisdictions in which he or she is licensed to practice law, as well as to determine the extent of his or her admissions *pro hac vice* in Pennsylvania. The proposed rule eliminates the concern that there may be

attorneys who are not licensed in Pennsylvania, but routinely take on Pennsylvania cases by seeking admission *pro hac vice*.

A second purpose of the candidate's verification is to ensure that the court exercises the same supervision over an attorney admitted *pro hac vice* as over a Pennsylvania attorney. The verification must contain statements by the candidate with respect to (1) compliance with Pennsylvania law, (2) submission to the jurisdiction of Pennsylvania courts and the Pennsylvania Disciplinary Board, and (3) consent to the appointment of the sponsor as agent for service of process in actions arising out of the practice of law in the matter for which admission is sought.

Subdivision (d) of the proposed rule governs the requirements for the sponsor's verification and imposes obligations upon him or her. The Pennsylvania attorney acting as sponsor through statements in the verification assumes the obligation to evaluate the candidate for reputation and competency before agreeing to sponsor him or her, and to supervise the candidate once admitted. A court may deny the motion on the basis that the Pennsylvania attorney is acting as sponsor in too many cases to adequately supervise the candidate.

Subdivision (d)(1) also requires the sponsor to enter an appearance as the attorney of record in the action on behalf of the party whom the candidate seeks to represent and to remain the attorney of record if the motion is granted. Further, the sponsor is obligated to sign and serve, or be served with, notices and papers filed in the actions and, unless excused, to attend proceedings before the court.

Subdivision (e) provides that the court must grant the motion for admission *pro hac vice* unless it finds good cause for denial. The note to subdivision (e) lists eight grounds for good cause.

Subdivision (f) provides for the revocation of admission *pro hac vice* either *sua sponte* by the court or upon motion of a party.

By the Civil Procedural
Rules Committee

R. Stanton Wettick, Jr.
Chair