

PRO HAC VICE APPEARANCES IN THE STATE OF RHODE ISLAND

For the non-lawyers out there who are a little rusty on their Latin, the term “Pro Hac Vice” is roughly translated as “for this occasion”. In the law, it signifies the appearance in the courts of one of the states by an out-of-state attorney, not licensed in that state. Since the lawyer is not licensed to practice, “pro hac vice” appearances are for a particular case only and subject to restrictions that vary somewhat from state to state. The visiting lawyer seeking pro hac vice status is usually someone what has a long-standing relationship with his or her client, has been hired to represent the client by an insurance company or someone else, may be someone who is well known or highly skilled in the particular area of the law, and/or may be all of these things.

In Rhode Island, a lawyer who is not admitted to practice in the state is required to associate him or herself with a local attorney. Association with a lawyer practicing in Rhode Island may at first blush seem to be a burden, but is or can be quite useful for such things as to confirm compliance in the following ways:

- Determining compliance with local rules and ethical restrictions on fee agreements;
- Assuring compliance with local rules of discovery;
- Assisting with routine motion practice and providing coverage for hearings;
- Assisting with preparation of legal memorandum involving issues of law which may vary from state-to-state; and
- After all, the old adage that “two heads are better than one” might turn out to be the case with collaboration helping the client in the long run.

RHODE ISLAND’S STATE RULES

Rhode Island General Laws (“R.I.G.L.”) section 11-27-5 prohibits the practice of law by those who are not members of the Rhode Island bar. Section 11-27-2 defines the practice of law as “the doing of any act for another person usually done by attorneys at law in the course of their profession....” As examples the statutes lists:

- 1) The appearance or acting as the attorney, solicitor, or representative of another person before any court, referee, master, auditor, division, department, commission, board, judicial person, or body authorized or constituted by law to determine any question of law or fact or to exercise any judicial power, or the preparation of pleadings or other legal papers incident to any action or other proceeding of any kind before or to be brought before the court or other body;
- (2) The giving or tendering to another person for a consideration, direct or indirect, of any advice or counsel pertaining to a law question or a court action or judicial proceeding brought or to be brought;

(3) The undertaking or acting as a representative or on behalf of another person to commence, settle, compromise, adjust, or dispose of any civil or criminal case or cause of action;

(4) The preparation or drafting for another person of a will, codicil, corporation organization, amendment, or qualification papers, or any instrument which requires legal knowledge and capacity and is usually prepared by attorneys at law.

Without prior permission, an out-of state lawyer who attempts to practice law in Rhode Island may be committing a criminal offense. R.I.G.L. Section 11-27-5. Further, it is illegal to receive or give any form of payment (money or otherwise) for the practice of law (except a referral fee) to a non-attorney). R.I.G.L. Section 11-27-6.

Article II, Rule 9, of the Rhode Island Supreme Court Rules was promulgated to address the admission of out-of-state attorneys desiring to practice law in Rhode Island. Subsequent to the matter of *In re Ferrey*, 774 A.2d 62 (R.I., 2001), the rule was amended to pertain not only to practice before Rhode Island Courts, but also to any “tribunal, commission, board, or agency in this state.” The Court also delegated the authority to grant such motions to the lower courts of the state. Authority to practice before any other board, agency, commission or tribunal must be gotten through “the court to which an appeal is taken from that court, tribunal, commission, board, or agency.”

Uniform Pro Hac Vice forms, which can be used in all Rhode Island courts, can be found on the Rhode Island Judiciary’s website at <http://www.courts.state.ri.us/supreme/prohac.htm>. The forms themselves, perhaps as much as Rule 9, supply requirements for admission *pro hac vice* and the Courts tend to scrutinize motions for *pro hac vice* admission to determine strict compliance.

RHODE ISLAND’S “LOCAL OFFICE” REQUIREMENT

Out-of-state lawyers should be particularly aware of Rhode Island’s “local office” requirement. That is, the local attorney seeking to help the out-of-state lawyer be admitted *pro hac vice* must certify that he or she is a member in good standing of the bar of the State of Rhode Island and “actively engaged in the practice of law out of an office located in this state.”

At least one Superior Court judge has issued a written decision – and several others have followed suit in unwritten decisions from the bench – that this requires more than maintaining an “ancillary” office or having a name on the wall in an “executive suite”. These judges have held that the local lawyer’s office must be a permanent one, fully staffed, and in which the advocating, local attorney regularly practices. *See, e.g., Goodwin v. Fuji Electric Co., Ltd.*, PC 2002-3106 (Apr. 25, 2007) (Hurst, J.) (2007 R.I. *Super LEXIS* 64).

Done properly, a visiting lawyer may be allowed to practice through the pro hac vice provisions of the court several times and to establish a good working relationship with local counsel. Conversely, failure to comply can lead to potential sanctions (including monetary fines) for a “misstatement” in a motion – and adversely impact future motions for *pro hac vice* admission. This makes it advisable that any out-of-state attorney seeking to practice in Rhode Island find reliable, in-state counsel to fully comply with Rule 9 and the laws of Rhode Island.

OUR FIRM CAN HELP

If you need local legal representation or coverage on a matter involving a Rhode Island case or cases, we can assist in having your lawyer admitted “*pro hac vice*” and/or cover local matters and court appearances for or with you or your lawyer. Whether your matter involves a corporate matter or complex civil litigation, our office has wide-ranging experience, expertise and knowledge that can help make a positive impact. Please browse our website at www.lawyers-online.us for further details and information and call us to discuss your needs.