

1 **Rule 14-806. Admission pro hac vice.**

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3 (a) An attorney who is not a member of the Bar but who is admitted to practice law in
4 another state or in any court of the United States or territory or insular possession of the
5 United States shall apply to be admitted pro hac vice in accordance with this rule prior to
6 appearing as counsel before any state or local court, board or administrative agency in
7 the State of Utah. ~~in a court of record or not of record in this state.~~

8
9 (b) Application of rule. This rule applies to:

10 (b)(1) All actions or proceedings pending before a court of this state;

11 (b)(2) All actions or proceedings pending before an administrative body or governmental
12 body in this state, unless the rules of that agency or governmental body provide otherwise;

13 (b)(3) All arbitration or alternative dispute resolution procedures in this state that are court
14 annexed or court ordered, or that are mandated by statute or administrative rule; and

15 (b)(4) All services incident to any of these proceedings including, but not limited to,
16 discovery and settlement negotiations.

17 (b)(5) This rule does not apply to arbitration or alternative dispute resolution procedures
18 in which the parties engage voluntarily or by private agreement.

19 (c) Nonresident counsel may be permitted to appear in a particular case or proceeding if
20 the court, agency or administrative body in which the matter case is pending determines
21 that admission pro hac vice will serve the interests of the parties and the efficient and just
22 administration of the case. Resident counsel may be permitted only if he or she has
23 received a Practice Pending Admission Certificate.

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25 (d) Admission pro hac vice under this rule is discretionary with the court, agency or
26 administrative body in which the application for admission is made. Admission
27 pro hac vice may be revoked by the court, agency or administrative body upon its own
28 motion or the motion of a party if, after notice and a hearing, the court, agency or
29 administrative body determines that admission pro hac vice is inappropriate. Admission
30 pro hac vice shall be denied or, if granted, shall be revoked if the court, agency or

31 administrative body determines that the process is being used to circumvent the normal
32 requirements for the admission of attorneys to the practice of law in Utah.

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34 (e) Eligibility. Nonresident counsel who has been retained to represent a client in this in
35 an action or proceedings described in section (b) of this rule may file a written application
36 to appear as counsel in that action or proceedings if the following conditions are met:

37 (e)(1) The lawyer is not a member of the Utah State Bar;

38 (e)(2) The lawyer is not a resident of Utah;

39 (e)(3) The lawyer is not regularly employed in Utah;

40 (e)(4) The lawyer is an active member in good standing in another state, territory or insular
41 possession of the United States;

42 (e)(5) The lawyer associates with an active member in good standing of the Utah State
43 Bar who is a resident of the State of Utah and whose law office is in the State of Utah,
44 hereinafter called "local counsel."

45 (ef) In determining whether to enter or revoke the order of admission pro hac vice, the
46 court, administrative agency or body may consider any relevant information, including
47 whether nonresident counsel:

48 (ef)(1) is familiar with Utah rules of evidence and procedure, including applicable local
49 rules;

50 (ef)(2) is available to opposing parties;

51 (ef)(3) has particular familiarity with the legal affairs of the party relevant to the case;

52 (ef)(4) complies with the rulings and orders of the court, agency or administrative body;

53 (ef)(5) has caused delay or been disruptive; and

54 (ef)(6) has been disciplined in any other jurisdiction within the prior 5 years.

55

56 (g) Application Procedure. The non-member attorney seeking admission pro hac vice
57 must complete under oath and submit to the Bar an application form available from the
58 Utah State Bar. The applicant must complete a separate application for each matter in
59 which the applicant wants to appear. The application must include the following:

60 (g)(1) the name, the court or administrative body and the court or matter number in which
61 the applicant wishes to appear;

62 (g)(2) the name of the party on whose behalf the applicant wishes to appear;

63 (g)(3) the name, number, and court of other cases pending or closed within the prior five
64 years in any state or federal court or board or administrative agency of Utah in which the
65 applicant appears pro hac vice;

66 (g)(4) a statement whether in any state the applicant is currently suspended or disbarred
67 from the practice of law, has been disciplined within the prior five years, or is the subject
68 of any pending disciplinary proceedings;

69 (g)(5) a statement that the applicant submits to the disciplinary authority and procedures
70 of the Utah State Bar, is familiar with the rules of procedure and evidence, including
71 applicable local rules, will be available for depositions, hearings, and conferences, and
72 will comply with the rulings and orders of the court;

73 (g)(6) the name, address, Bar identification number, telephone number, and e-mail
74 address of the member of the Utah State Bar to serve as local counsel;

75 (g)(7) an original certificate of good standing from the jurisdiction or jurisdictions in
76 which the applicant is admitted dated no more than 60 days prior to the date of
77 application; and

78 (g)(8) an application fee equal to the current dues paid by active members of the Utah
79 State Bar for the licensing year in which the application is filed. The fee must be paid to
80 the Utah State Bar.

81 (h) Limited Exception to Original and Annual Fee. The application fee and annual fee
82 will be waived for:

83 (h)(1) non-member attorneys providing legal services without compensation or an
84 expectation of compensation through a charitable, religious, civic, community,
85 governmental, or educational organization in a matter designed primarily to address the
86 needs of people of limited means. A non-member seeking a fee waiver to provide pro
87 bono representation shall include in the application a verification that all clients

88 represented in the action are of limited means and that no attorney fee shall be paid by
89 the client.

90

91 (h)(2) attorneys who are employees of and representing the United States of America or
92 any of its departments or agencies.

93

94 (g) Acknowledgment of Supporting Documentation and Receipt of Filing Fee. Upon
95 receipt of a complete application and fee, the Bar shall issue an Acknowledgement of
96 Supporting Documentation and Receipt of Filing Fee (hereinafter "Acknowledgement").
97 In making the Acknowledgment, the Bar may attach copies or comment on any
98 submitted material that may be appropriate for a tribunal to consider with an application
99 for pro hac vice admission.

100

101 (h) Filing with the tribunal. Once the Bar issues an Acknowledgement, local counsel
102 must file the original Acknowledgment along with the following documents: (1) an
103 original motion for admission pro hac vice; (2) a copy of the application and all
104 supporting documents; (3) a copy of the certificate of good standing; (4) an original
105 proposed order; and (5) any submissions from the Bar together with proof of service on
106 all parties in accordance with Utah Rules of Civil Procedure.

107

108 (i) Names and Appearances. The name bar number and address of local counsel must
109 appear on all notices, orders, pleadings and other documents filed in the case or
110 proceeding in which the non-member attorney is appearing pursuant to this rule. Local
111 counsel is required to personally appear and participate in pre-trial conferences,
112 hearings and other proceedings before the court, board or administrative agency if the
113 court, board or administrative agency deems such appearances or participation
114 appropriate. Local counsel shall accept joint responsibility with the non-member
115 attorney to the client, opposing counsel and parties and to the court, board or
116 administrative agency. Local counsel must continue as the local counsel of record in the
117 case unless another member of the Utah State Bar is substituted as local counsel.

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119 (j) *Appearances by non-member attorneys.* An applicant shall not appear in a
120 proceeding subject to this rule until the court, arbitrator, or administrative or
121 governmental agency where the action is pending enters an order granting the motion
122 for admission pro hac vice.

123 (k) *Continuing Duty to Advise of Changes in Status.* Out-of-state counsel admitted pro
124 hac vice has a continuing duty during the period of such admission to promptly advise the
125 Bar of a disposition made of pending charges or the institution of any new disciplinary
126 proceedings or investigations. The Bar shall then advise any court, board or
127 administrative agency where the attorney has been admitted pro hac of any such
128 information. Out-of-state counsel shall promptly advise the Bar if permission to appear
129 pro hac vice pursuant to this rule if revoked by any court, board or administrative agency.

130
131 (l) *Annual Renewal.* On or before the anniversary date of the filing of the initial application
132 with the Bar, the local counsel must certify to the Bar that the non-resident attorney
133 continues to act as counsel in the cause or that the cause has been finally adjudicated.
134 In the event that non-member counsel continues to act as counsel in the case, the non-
135 member attorney shall remit to the Bar an annual fee equal to the current dues paid by
136 active members of the Utah State Bar for the licensing year in which the renewal is filed
137 within 30 days of the anniversary date.

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139 (m) *Failure to Renew.* Any non-member attorney who continues to appear pro hac vice in
140 a cause and fails to pay the renewal fee set forth in (l) of this rule, shall be suspended
141 from appearing in any proceeding subject to this rule after 30 days of the anniversary
142 date. The Executive Director of the Utah State Bar shall notify the non-member attorney
143 and local counsel of the suspension and shall file a certified copy of the notice with the
144 court, board or administrative agency that approved the pro hac vice application. The non-
145 member may be reinstated upon payment of the fees set forth in paragraph (l) of this rule
146 and a \$50 late penalty. Upon payment of all accrued fees and late penalty, the Executive
147 Director shall reinstate the non-member attorney and shall certify reinstatement to the
148 appropriate court, board or administrative agency.

149

150 (n) Appellate Matters and Other Forms of Review. Out-of-state counsel admitted in a
151 lower tribunal on a case or matter that is appealed must file a notice of appearance in the
152 appellate court or reviewing tribunal. A new application to the Bar is not required.

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154
155 ~~(d) The attorney seeking admission pro hac vice shall complete under oath and submit~~
156 ~~to the Bar an application form available from the Utah State Bar or court clerks' office.~~
157 ~~The applicant shall attach to the application form a Certificate of Good Standing from the~~
158 ~~licensing state in which the applicant resides. The applicant shall complete a separate~~
159 ~~application for each case in which the applicant wants to appear. The fee for each~~
160 ~~application is \$250, which shall be paid to the Utah State Bar. Fees paid under this rule~~
161 ~~shall be used for attorney discipline investigations and proceedings. The following are~~
162 ~~exempt from the fee:~~

163 ~~(d)(1) attorneys who are employees of and representing the United States of America or~~
164 ~~any of its departments or agencies; and~~

165 ~~(d)(2) attorneys representing indigent clients on a pro bono basis.~~

166 ~~(e) A copy of the application and a receipt showing payment of the fee shall be filed in the~~
167 ~~court in which the case is pending, with a motion by a member of the Bar to admit the~~
168 ~~applicant pro hac vice and a consent by that member of the Bar to appear as associate~~
169 ~~counsel. Associate counsel shall be a resident of Utah. The application form shall include:~~

170 ~~(e)(1) the name, address, telephone number, fax number, e-mail address, bar~~
171 ~~identification number(s), and state(s) of admission of the applicant;~~

172 ~~(e)(2) the name and number of the case in which the applicant is seeking to appear as~~
173 ~~the attorney of record or, if the case has not yet been filed, a description of the parties;~~

174 ~~(e)(3) the name, number, and court of other cases pending or closed within the prior five~~
175 ~~years in any state or federal court of Utah in which the applicant or a member of the~~
176 ~~applicant's firm appears pro hac vice;~~

177 ~~(e)(4) a statement whether, in any state, the applicant:~~

178 ~~(e)(4)(A) is currently suspended or disbarred from the practice of law;~~

179 ~~(e)(4)(B) has been disciplined within the prior five years; or~~

180 ~~(e)(4)(C) is the subject of any pending disciplinary proceedings;~~

181 ~~(e)(5) a statement that the applicant:~~
182 ~~(e)(5)(A) submits to the disciplinary authority and procedures of the Bar;~~
183 ~~(e)(5)(B) is familiar with the rules of procedure and evidence, including applicable local~~
184 ~~rules;~~
185 ~~(e)(5)(C) will be available for depositions, hearings, and conferences; and~~
186 ~~(e)(5)(D) will comply with the rulings and orders of the court;~~
187 ~~(e)(6) the name, address, Bar identification number, telephone number, fax number, and~~
188 ~~e-mail address of the member of the Utah State Bar to serve as associate counsel;~~
189 ~~(e)(7) for resident counsel only, a copy of the Practice Pending Admission Certificate; and~~
190 ~~(e)(8) any other information relevant to the standards for the admission of the applicant.~~
191 ~~(f) Utah counsel associated with nonresident or resident counsel seeking admission~~
192 ~~pro hac vice shall:~~
193 ~~(f)(1) file a motion for admission of the applicant pro hac vice;~~
194 ~~(f)(2) serve the motion by mail, hand-delivery or facsimile on the Utah State Bar's general~~
195 ~~counsel on or before filing with the court and include a certificate of service with the motion~~
196 ~~evidencing service on the Bar's general counsel and upon the opposing parties, or, if~~
197 ~~represented, their counsel;~~
198 ~~(f)(3) file a written consent to appear as associate counsel;~~
199 ~~(f)(4) sign the first pleading filed;~~
200 ~~(f)(5) continue as one of the counsel of record in the case unless another member of the~~
201 ~~Bar is substituted as associate counsel; and~~
202 ~~(f)(6) be available to opposing counsel and the court for communication regarding the~~
203 ~~case and the service of papers.~~
204 ~~(g) The court may require Utah counsel to appear at all hearings. Utah counsel shall have~~
205 ~~the responsibility and authority to act for the client in all proceedings if the nonresident~~
206 ~~attorney fails to appear or fails to respond to any order of the court.~~
207 (h) An attorney admitted pro hac vice shall comply with and is subject to Utah statutes,
208 rules of the Supreme Court, including the Rules of Professional Conduct and Article 5,
209 Lawyer Discipline and Disability, the rules of the court in which the attorney appears, and
210 the rules of the Code of Judicial Administration.