



Utah Supreme Court
Advisory Committee on the Rules of Professional Conduct
Meeting Agenda
Cory Talbot, Chair

Location: Utah Law and Justice Center and virtually via [Zoom Link](#)

Date: April 2, 2024

Time: 4:00 – 6:00 p.m.

Welcome and approval of minutes	Tab 1	Cory Talbot
Discussion: Language in Rule 5.5 and Rule 14-806 regarding local counsel and having a law office in Utah.	Tab 2	Cory Talbot / Alyson McAllister

Reminder: Check style guide for conformity before rules are sent to the Supreme Court.

Upcoming Items:

- Rule 1.0
- Rule 8.4
- Referral Fees

Rules of Professional Conduct Committee Website: [Link](#)

Meeting Schedule:

Jan 2 • Feb 6 • Mar 5 • April 2 • May 7 • June 4 • Aug 6 • Sep 3 • Oct 1 • Nov 5 • Dec 3

Tab 1



Utah Supreme Court's Advisory Committee on the Rules of Professional Conduct

[Draft] Meeting Minutes

March 5, 2024

Utah Law and Justice Center & Zoom

4:00 pm Mountain Time

Cory Talbot, Chair

Attendees:

Cory Talbot (Co-Chair)
Jurhee Rice (Co-Chair)
Ashley Gregson
Adam Bondy
Ian Quiel
Alyson McAllister
Robert Gibbons
Hon. Amy Oliver
Hon. James Gardner
Hon. Craig Hall
Hon. Trent Nelson (emeritus)
Mark Nickel
Mark Hales
Dane Thorley
Lynda Viti
Gary Sackett (emeritus)
Christine Greenwood (ex officio)
Sheradee Fleming (ex officio)
Hon. M. Alex Natt, Recording
Secretary

Staff:

Beth Kennedy

Guests:

Excused: Austin Riter, Jacqueline
Carlton, Julie Nelson

1. Welcome, Approval of the February 4, 2024 meeting minutes (Chair Talbot)

Chair Talbot recognized the existence of a quorum and called the meeting to order at 4:02 p.m.

Chair Talbot asked for a Motion to approve the February 4, 2024 meeting minutes. Mr. Quiel moved for approval. Ms. McAllister seconded. The Motion passed unanimously.

Mr. Talbot announced that the Utah Supreme Court had appointed Jurhee Rice as Co-Chair of this committee. The Committee offered its congratulations to Ms. Rice.

2. Possible Amendments to Rule 14-301 (Judge Oliver)

Judge Oliver was asked to present her subcommittee's work on the matter. Mr. Talbot informed the Committee that in his recent meeting with the Supreme Court the Court informed him that changes of the nature proposed by the Committee were no longer necessary. The Committee decided to table any proposed changes to Rule 14-301 at this time and instead focus on Rule 8.4.

3. Rule 8.4 (Chair Talbot)

The Chair noted that the Supreme Court has asked the Committee to re-visit prior suggested changes to Rule 8.4. Ms. Kennedy suggested she will compile all proposed revisions to the Rule since 2015 for consideration going forward. Ashley Gregson was asked to Chair a Subcommittee with Judge Nelson, Lynda Viti and Ms. Greenwood joining. Chair Talbot suggested that guidance from the Court regarding 8.4(d) and the comment would be desirable.

4. Update on Rule 7.1 Discussions (Robert Gibbons)

Mr. Gibbons updated the Committee on Rule 7.1. The Committee noted that Senate Bill 202 was passed in the recent legislative session and that Bill contains similar language to that which the subcommittee has proposed. It was noted that the phrase "pecuniary gain" does not appear in the Bill. The Committee considered whether it was now necessary or desirable to have a rule whose language differs from and/or is more permissive to that codified in statute. After discussion the Committee decided to inform the Supreme Court that it was not prepared to take action at this time.

The next meeting of the Committee is April 2, 2024.

The meeting adjourned at 5:10 p.m.

Tab 2

Rule 5.5 and Rule 14-806
Alyson McAllister

I'm currently on the Federal Local Rules of Civil Procedure Committee, and a subcommittee has been reviewing DUCivR 83-1.1. The Court has been getting questions relating to multi-jurisdictional practices and specifically how that works with pro hac vice and the definitions of local counsel. We took a look at Utah's Rule 5.5 that this committee recently changed (about UPL) and Rule 14-806(e) and it made me wonder if this committee needs to look at 14-806(e), specifically the requirements about local counsel being a "Utah resident" and having a "law office" in Utah.

The question was also raised about whether Utah has any rule specifically allowing or prohibiting attorneys licensed in Utah but residing in another state who are practicing law in Utah, and if there is no rule currently, do we need one?

(e) **Eligibility.** A non-Utah licensed attorney who has been retained to represent a client in an action or proceedings described in paragraph (b) may file a written application to appear as counsel in that action or proceedings if the following conditions are met:

- (1) The lawyer is not a Bar member;
- (2) The lawyer is not a resident of Utah;
- (3) The lawyer is not regularly employed in Utah;
- (4) The lawyer is an active member licensed and in good standing in another state, territory or insular possession of the United States; and
- (5) The lawyer associates with an active Bar member in good standing who is a Utah resident and whose law office is in Utah ("**local counsel**").

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

2 *Effective: 11/1/2020*

3 (a) **Applicability.** An attorney who is not a Bar member but is admitted to practice law
4 in another state or in any court of the United States or Territory or insular possession of
5 the United States must apply to be admitted pro hac vice under this rule before
6 appearing as counsel before any state or local court or administrative or governmental
7 body in the State of Utah (“**Utah tribunal**”).

8 (b) **Rule application.**

9 (1) This rule applies to:

10 (A) All actions or proceedings pending before a court of Utah:

11 (B) All actions or proceedings pending before a Utah administrative or
12 governmental body, unless the rules of that body provide otherwise;

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

15 (D) All services incident to any of the proceedings in paragraphs (b)(1)(A)
16 through (b)(1)(C), including, but not limited to, discovery and settlement
17 negotiations.

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

20 (c) **Permission to appear.** A non-Utah licensed attorney may be permitted to appear in a
21 particular case or proceeding if the Utah tribunal in which the matter is pending
22 determines that admission pro hac vice will serve the interests of the parties and the
23 efficient and just administration of the case. A non-Utah licensed attorney who resides
24 in Utah may be permitted only after receiving a Practice Pending Admission Certificate.

25 (d) **Admission is discretionary.** Admission pro hac vice under this rule is discretionary
26 with the Utah tribunal in which the application for admission is made. The Utah

27 tribunal may revoke admission pro hac vice upon its own motion or the motion of a
28 party if, after notice and a hearing, the Utah tribunal determines that admission pro hac
29 vice is inappropriate. Admission pro hac vice will be denied or, if granted, will be
30 revoked if the Utah tribunal determines that the process is being used to circumvent the
31 normal requirements for attorneys to practice law in Utah.

32 (e) **Eligibility.** A non-Utah licensed attorney who has been retained to represent a client
33 in an action or proceedings described in paragraph (b) may file a written application to
34 appear as counsel in that action or proceedings if the following conditions are met:

35 (1) The lawyer is not a Bar member;

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

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

38 (4) The lawyer is an active member licensed and in good standing in another state,
39 territory or insular possession of the United States; and

40 (5) The lawyer associates with an active Bar member in good standing who is a Utah
41 resident and whose law office is in Utah ("**local counsel**").

42 (f) **Factors in determining admission and revocation.** In determining whether to enter
43 or revoke the order of admission pro hac vice, the Utah tribunal may consider any
44 relevant information, including whether the non-Utah licensed attorney:

45 (1) is familiar with Utah rules of evidence and procedure, including applicable local
46 rules;

47 (2) is available to opposing parties;

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

49 (4) complies with the Utah tribunal's rulings and orders;

50 (5) has caused delay or been disruptive; and

51 (6) has been disciplined in any other jurisdiction within the prior five years.

52 (g) **Application procedure.** A non-Utah licensed attorney seeking admission pro hac
53 vice must complete under oath and submit to the Bar an application form available
54 from the Bar. The applicant must complete a separate application for each matter in
55 which the applicant wants to appear. The application must include the following:

56 (1) identify the Utah tribunal for which the applicant wishes to appear, and the case
57 number or other identifying information for the matter in which the applicant
58 wishes to appear;

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

60 (3) the case or matter name, case or matter number, and Utah tribunal name for
61 other cases pending or closed within the prior five years for which the applicant
62 appeared pro hac vice;

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

67 (5) a statement that the applicant submits to the disciplinary authority and
68 procedures of the Utah Office of Professional Conduct, is familiar with the rules or
69 procedure and evidence, including applicable local rules, will be available for
70 depositions, hearings, and conferences, and will comply with the Utah tribunal's
71 rulings and orders;

72 (6) the name, address, Bar identification number, telephone number, and email
73 address of the Bar member to serve as local counsel;

74 (7) a certificate of good standing from the jurisdiction or jurisdictions in which the
75 applicant is admitted dated no more than 60 days before the application date; and

76 (8) an application fee equal to the current dues paid by active members of the Bar for
77 the licensing year in which the application is filed. The fee must be paid to the Bar.

78 (h) **Limited exception to original and annual fee.** The application fee and annual fee
79 will be waived for:

80 (1) non-Utah licensed attorneys providing legal services without compensation or an
81 expectation of compensation through a charitable, religious, civic, community,
82 governmental, or educational organization in a matter designed primarily to address
83 the needs of people of limited means. A non-Utah licensed attorney seeking a fee
84 waiver to provide pro bono representation must include in the application a
85 verification that all clients represented in the action are of limited means and that no
86 attorney fees will be paid by the client.

87 (2) Attorneys who are employees of and representing the United States of America
88 or any of its departments or agencies.

89 (i) **Acknowledgment of Supporting Documentation and Receipt of Filing Fee.** Upon
90 receiving a complete application and fee, the Bar will issue an Acknowledgement of
91 Supporting Documentation and Receipt of Filing Fee ("**Acknowledgement**"). In making
92 the Acknowledgement, the Bar may attach copies or comment on any submitted
93 material that may be appropriate for a tribunal to consider with an application for pro
94 hac vice admission.

95 (j) **Filing with the Utah tribunal.** Once the Bar issues an Acknowledgement, local
96 counsel must file the Acknowledgement along with the following documents:

97 (1) a motion for admission pro hac vice;

98 (2) a copy of the application and all supporting documents;

99 (3) a copy of the certificate of good standing;

100 (4) a proposed order; and

101 (5) any submissions from the Bar together with proof of service on all parties in
102 accordance with the Utah Rules of Civil Procedure or, to the extent they differ from
103 the civil rules, the governing rules of the Utah tribunal.

104 (k) **Names and appearances.** The name, bar number, and address of local counsel must
105 appear on all notices, orders, pleadings and other documents filed in the case or
106 proceeding in which the non-Utah licensed attorney is appearing pursuant to this rule.
107 Local counsel is required to personally appear and participate in pre-trial conferences,
108 hearings and other proceedings before the Utah tribunal if the Utah tribunal deems the
109 appearances or participation appropriate. Local counsel must accept joint responsibility
110 with the non-Utah licensed attorney to the client, opposing counsel and parties and to
111 the Utah tribunal. Local counsel must continue as the local counsel of record in the case
112 unless another Bar member is substituted as local counsel.

113 (l) **Appearances by non-Utah licensed attorneys.** An applicant may not appear in a
114 proceeding subject to this rule or have the applicant's name placed on any pleadings or
115 proceedings documents until the Utah tribunal where the action is pending enters an
116 order granting the motion for pro hac vice.

117 (m) **Continuing duty to advise of changes in status.** A non-Utah licensed attorney
118 admitted pro hac vice has a continuing duty during the period of admission to
119 promptly advise the Bar of a disposition made for any pending disciplinary charges or
120 the institution of any new disciplinary proceedings or investigations. The Bar must then
121 advise any Utah tribunal where the attorney has been admitted pro hac of any new
122 disciplinary information. The non-Utah licensed attorney must promptly advise the Bar
123 if permission to appear pro hac vice under this rule is revoked by any Utah tribunal.

124 (n) **Annual renewal.** On or before the anniversary date of filing the initial application
125 with the Bar, a non-Utah licensed attorney must certify that the non-Utah licensed
126 attorney continues to act as counsel in the cause or that the cause has been finally
127 adjudicated. To renew, within 28 days of the anniversary date the non-Utah licensed
128 attorney must remit to the Bar an annual fee equal to the current dues paid by active
129 members of the Bar for the licensing year in which the renewal is filed.

130 (o) **Failure to renew.** Any non-Utah licensed attorney who continues to appear pro hac
131 vice in a cause and fails to pay the renewal fee set forth in paragraph (n), will be

132 suspended from appearing in any proceeding subject to the rule after 28 days of the
133 anniversary date. The Bar's executive director must notify the non-Utah licensed
134 attorney and local counsel of the suspension and file the notice with the Utah tribunal
135 that approved the pro hac vice application. The non-Utah licensed attorney may be
136 reinstated upon paying the fees set forth in paragraph (n) of this rule and a \$50 late
137 penalty. Upon paying all accrued fees and late penalty, the Executive Director will
138 reinstate the non-Utah licensed attorney and will certify reinstatement to the
139 appropriate Utah tribunal.

140 (p) **Appeals and other forms of review.** A non-Utah licensed attorney admitted in a
141 lower tribunal on a case or matter that is appealed must file a notice of appearance in
142 the appellate court or reviewing tribunal. A new application to the Bar is not required.

143 (q) **Applicable laws.** An attorney admitted pro hac vice must comply with and is
144 subject to Utah statutes, Supreme Court rules, the rules of the Utah tribunal in which
145 the attorney appears, and the Utah Code of Judicial Administration.

146 (r) **Tribal representation.** A Utah tribunal may allow a non-Utah licensed attorney who
147 is admitted and in good standing in another United States jurisdiction to appear for the
148 limited purpose of participating in a child custody proceeding under the Indian Child
149 Welfare Act of 1978, while representing a tribe, without being subject to the
150 requirements of this rule.

151

1 **Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law.**

2 *Effective: 5/1/2022*

3 (a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the
4 legal profession in that jurisdiction, or assist another in doing so.

5 (b) A lawyer who is not admitted to practice in this jurisdiction:

6 (1) must not, except as authorized by these Rules or other law, establish a public-
7 facing office in this jurisdiction for the practice of law;

8 (2) must not hold out to the public or otherwise represent that the lawyer is
9 admitted to practice law in this jurisdiction;

10 (3) may, while physically located in this jurisdiction, provide legal services remotely
11 to clients in a jurisdiction where the lawyer is admitted, so long as the lawyer does
12 not establish a public-facing office in this jurisdiction and complies with subsection
13 (b)(2).

14 (c) A lawyer admitted in another United States jurisdiction, and not disbarred or
15 suspended from practice in any jurisdiction, may provide legal services on a temporary
16 basis in this jurisdiction that:

17 (1) are undertaken in association with a lawyer who is admitted to practice in this
18 jurisdiction and who actively participates in the matter;

19 (2) are in or reasonably related to a pending or potential proceeding before a
20 tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is
21 assisting, is authorized by law or order to appear in such proceeding or reasonably
22 expects to be so authorized;

23 (3) are in or reasonably related to a pending or potential arbitration, mediation or
24 other alternative dispute resolution proceeding in this or another jurisdiction, if the
25 services arise out of or are reasonably related to the lawyer's practice in a

26 jurisdiction in which the lawyer is admitted to practice and are not services for
27 which the forum requires pro hac vice admission; or

28 (4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably
29 related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to
30 practice.

31 (d) A lawyer admitted in another United States jurisdiction and not disbarred or
32 suspended from practice in any jurisdiction may provide legal services through an
33 office or other systematic and continuous presence in this jurisdiction without
34 admission to the Utah State Bar if:

35 (1) the services are provided to the lawyer's employer or its organizational affiliates
36 while the lawyer has a pending application for admission to the Utah State Bar and
37 are not services for which the forum requires pro hac vice admission; or

38 (2) the services provided are authorized by specific federal or Utah law or by
39 applicable rule.

40

41 **Comment**

42 [1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to
43 practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or
44 may be authorized by court rule or order or by law to practice for a limited purpose or
45 on a restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer,
46 whether through the lawyer's direct action or by the lawyer's assisting another person.
47 For example, a lawyer may not assist a person in practicing law in violation of the rules
48 governing professional conduct in that person's jurisdiction.

49 [2] The definition of the practice of law is established by law and varies from one
50 jurisdiction to another. The "practice of law" in Utah is defined in Rule 14-802(b)(1),
51 Authorization to Practice Law, of the Supreme Court Rules of Professional Practice.
52 This Rule does not prohibit a lawyer from employing the services of paraprofessionals

53 and delegating functions to them, so long as the lawyer supervises the delegated work
54 and retains responsibility for their work. See Rule 5.3.

55 [2a] The Utah rule modifies the second sentence of ABA Comment [2] to reflect and be
56 consistent with Rule 14-802(b)(1), Authorization to Practice Law, of the Supreme Court
57 Rules of Professional Practice, which both defines the “practice of law” and expressly
58 authorizes nonlawyers to engage in some aspects of the practice of law as long as their
59 activities are confined to the categories of services specified in that rule.

60 [3] A lawyer may provide professional advice and instruction to nonlawyers whose
61 employment requires knowledge of the law, for example, claims adjusters, employees
62 of financial or commercial institutions, social workers, accountants and persons
63 employed in government agencies. Lawyers also may assist independent nonlawyers,
64 such as paraprofessionals, who are authorized by the law of a jurisdiction to provide
65 particular law-related services. In addition, a lawyer may counsel nonlawyers who wish
66 to proceed pro se.

67 [4] Other than as authorized by law or this Rule, a lawyer who is not admitted to
68 practice generally in this jurisdiction violates paragraph (b)(1) if the lawyer establishes a
69 public-facing office in this jurisdiction for the practice of law. Such a lawyer must not
70 hold out to the public or otherwise represent that the lawyer is admitted to practice law
71 in this jurisdiction. See also Rule 7.1(a).

72 [4a] Utah's Rule 5.5(b) differs from the ABA Model Rule by recognizing in paragraph
73 (b)(3) that systematic and continuous physical presence in Utah while providing legal
74 services remotely to clients in a jurisdiction where the lawyer is admitted does not in
75 itself violate this Rule.

76 [5] There are occasions in which a lawyer admitted to practice in another United States
77 jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may
78 provide legal services on a temporary basis in this jurisdiction under circumstances that
79 do not create an unreasonable risk to the interests of their clients, the public or the

80 courts. Paragraph (c) identifies four such circumstances. The fact that conduct is not so
81 identified does not imply that the conduct is or is not authorized. With the exception of
82 paragraphs (d)(1) and (d)(2), this Rule does not authorize a lawyer to establish an office
83 or other systematic and continuous presence in this jurisdiction without being admitted
84 to practice generally here.

85 [6] There is no single test to determine whether a lawyer's services are provided on a
86 "temporary basis" in this jurisdiction and may therefore be permissible under paragraph
87 (c). Services may be "temporary" even though the lawyer provides services in this
88 jurisdiction on a recurring basis, or for an extended period of time, as when the lawyer
89 is representing a client in a single lengthy negotiation or litigation.

90 [7] Paragraphs (c) and (d) apply to lawyers who are admitted to practice law in any
91 United States jurisdiction, which includes the District of Columbia and any state,
92 territory or commonwealth of the United States. The word "admitted" in paragraphs (c)
93 and (d) contemplates that the lawyer is authorized to practice in the jurisdiction in
94 which the lawyer is admitted and excludes a lawyer who while technically admitted is
95 not authorized to practice, because, for example, the lawyer is on inactive status.

96 [8] Paragraph (c)(1) recognizes that the interests of clients and the public are protected if
97 a lawyer admitted only in another jurisdiction associates with a lawyer licensed to
98 practice in this jurisdiction. For this paragraph to apply, however, the lawyer admitted
99 to practice in this jurisdiction must actively participate in and share responsibility for
100 the representation of the client.

101 [9] Lawyers not admitted to practice generally in a jurisdiction may be authorized by
102 law or order of a tribunal or an administrative agency to appear before the tribunal or
103 agency. This authority may be granted pursuant to formal rules governing admission
104 pro hac vice or pursuant to informal practice of the tribunal or agency. Under
105 paragraph (c)(2), a lawyer does not violate this Rule when the lawyer appears before a
106 tribunal or agency pursuant to such authority. To the extent that a court rule or other
107 law of this jurisdiction requires a lawyer who is not admitted to practice in this

108 jurisdiction to obtain admission pro hac vice before appearing before a tribunal or
109 administrative agency, this Rule requires the lawyer to obtain that authority.

110 [10] Paragraph (c)(2) also provides that a lawyer rendering services in this jurisdiction
111 on a temporary basis does not violate this Rule when the lawyer engages in conduct in
112 anticipation of a proceeding or hearing in a jurisdiction in which the lawyer is
113 authorized to practice law or in which the lawyer reasonably expects to be admitted pro
114 hac vice. Examples of such conduct include meetings with the client, interviews of
115 potential witnesses and the review of documents. Similarly, a lawyer admitted only in
116 another jurisdiction may engage in conduct temporarily in this jurisdiction in
117 connection with pending litigation in another jurisdiction in which the lawyer is or
118 reasonably expects to be authorized to appear, including taking depositions in this
119 jurisdiction.

120 [11] When a lawyer has been or reasonably expects to be admitted to appear before a
121 court or administrative agency, paragraph (c)(2) also permits conduct by lawyers who
122 are associated with that lawyer in the matter, but who do not expect to appear before
123 the court or administrative agency. For example, subordinate lawyers may conduct
124 research, review documents and attend meetings with witnesses in support of the
125 lawyer responsible for the litigation.

126 [12] Paragraph (c)(3) permits a lawyer admitted to practice law in another jurisdiction to
127 perform services on a temporary basis in this jurisdiction if those services are in or
128 reasonably related to a pending or potential arbitration, mediation or other alternative
129 dispute resolution proceeding in this or another jurisdiction, if the services arise out of
130 or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is
131 admitted to practice. The lawyer, however, must obtain admission pro hac vice in the
132 case of a court-annexed arbitration or mediation or otherwise if court rules or law so
133 require.

134 [13] Paragraph (c)(4) permits a lawyer admitted in another jurisdiction to provide
135 certain legal services on a temporary basis in this jurisdiction that arise out of or are

136 reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is
137 admitted but are not within paragraphs (c)(2) or (c)(3).

138 [13a] The last sentence in Comment [13] to ABA Model Rule 5.5 has been omitted to
139 comport with Utah's definition of the "practice of law" in Rule 14-802(b)(1).

140 [14] Paragraphs (c)(3) and (c)(4) require that the services arise out of or be reasonably
141 related to the lawyer's practice in a jurisdiction in which the lawyer is admitted. A
142 variety of factors evidence such a relationship. The lawyer's client may have been
143 previously represented by the lawyer or may be resident in or have substantial contacts
144 with the jurisdiction in which the lawyer is admitted. The matter, although involving
145 other jurisdictions, may have a significant connection with that jurisdiction. In other
146 cases, significant aspects of the lawyer's work might be conducted in that jurisdiction or
147 a significant aspect of the matter may involve the law of that jurisdiction. The necessary
148 relationship might arise when the client's activities or the legal issues involve multiple
149 jurisdictions, such as when the officers of a multinational corporation survey potential
150 business sites and seek the services of their lawyer in assessing the relative merits of
151 each. In addition, the services may draw on the lawyer's recognized expertise
152 developed through the regular practice of law on behalf of clients in matters involving a
153 particular body of federal, nationally-uniform, foreign or international law.

154 [15] Paragraph (d) identifies two circumstances in which a lawyer who is admitted to
155 practice in another United States jurisdiction, and is not disbarred or suspended from
156 practice in any jurisdiction, may establish an office or other systematic and continuous
157 presence in this jurisdiction for the practice of law as well as provide legal services on a
158 temporary basis. Except as provided in paragraphs (d)(1) and (d)(2), a lawyer who is
159 admitted to practice law in another jurisdiction and who establishes an office or other
160 systematic or continuous presence in this jurisdiction must become admitted to practice
161 law generally in this jurisdiction.

162 [15a] Utah's Rule 5.5(d) differs from the ABA Model Rule by requiring a person
163 providing services to the lawyer's employer to have submitted an application for

164 admission to the Bar, such as an application for admission of attorney applicants under
165 Supreme Court Rules of Professional Practice, Rule 14-704; admission by motion under
166 Rule 14-705; or admission as House Counsel under Rule 14-719.

167 [15b] Utah Rule 5.5 does not adopt the ABA's provisions dealing with foreign lawyers,
168 as other rules in Article 7 of the Rules Governing the Utah State Bar cover this matter.

169 [16] Paragraph (d)(1) applies to a lawyer who is employed by a client to provide legal
170 services to the client or its organizational affiliates, i.e., entities that control, are
171 controlled by or are under common control with the employer. This paragraph does not
172 authorize the provision of personal legal services to the employer's officers or
173 employees. The paragraph applies to in-house corporate lawyers, government lawyers
174 and others who are employed to render legal services to the employer. The lawyer's
175 ability to represent the employer outside the jurisdiction in which the lawyer is licensed
176 generally serves the interests of the employer and does not create an unreasonable risk
177 to the client and others because the employer is well situated to assess the lawyer's
178 qualifications and the quality of the lawyer's work.

179 [17] If an employed lawyer establishes an office or other systematic presence in this
180 jurisdiction for the purpose of rendering legal services to the employer under
181 paragraph (d)(1), the lawyer is subject to Utah admission and licensing requirements,
182 including assessments for annual licensing fees and client protection funds, and
183 mandatory continuing legal education.

184 [18] Paragraph (d)(2) recognizes that a lawyer may provide legal services in a
185 jurisdiction in which the lawyer is not licensed when authorized federal or other law,
186 which includes statute, court rule, executive regulation or judicial precedent.

187 [18a] The Utah version of Paragraph (d)(2) clarifies that a lawyer not admitted to
188 practice in Utah may provide legal services under that paragraph only if the lawyer can
189 cite specific federal or state law or an applicable rule that authorizes the services. See,
190 e.g., Rule DUCivR 83-1.1, Rules of Practice of the United States District Court of the

191 District of Utah; Rule 14-804 of the Supreme Court Rules of Professional Practice,
192 admission for military-lawyer practice; Rule 14-719(d)(2), which provides a six-month
193 period during which an in-house counsel is authorized to practice before submitting a
194 House Counsel application; practice as a patent attorney before the United States Patent
195 and Trademark Office.

196 [19] A lawyer who practices law in this jurisdiction pursuant to paragraphs (c) or (d) or
197 otherwise is subject to the disciplinary authority of this jurisdiction. See Rule 8.5(a).

198 [20] In some circumstances, a lawyer who practices law in this jurisdiction pursuant to
199 paragraphs (c) or (d) may have to inform the client that the lawyer is not licensed to
200 practice law in this jurisdiction. For example, that may be required when the
201 representation occurs primarily in this jurisdiction and requires knowledge of the law
202 of this jurisdiction. See Rule 1.4(b).

203 [21] Paragraphs (c) and (d) do not authorize communications advertising legal services
204 in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Rule
205 7.1 governs whether and how lawyers may communicate the availability of their
206 services in this jurisdiction.

207

Utah Federal Court Rules
United States District Court for the District of Utah
Civil Rules
Fed.R.CIV.P. 83 Rules by District Courts; Judge's Directives: Attorneys

D.Ut. DUCivR 83-1.1

DUCivR 83-1.1 Attorneys--Admission to Practice

Effective: December 1, 2020

[Currentness](#)

(a) Attorney Admission.

(1) *Eligibility.* An attorney who is an active member in good standing of the Utah State Bar is eligible for admission to this court's bar.

(2) *Application.* An eligible attorney must complete an online application using Public Access to Court Electronic Records (PACER).

(3) *Pro Bono Service Requirement.* By applying to become a member of this court's bar, an attorney agrees to accept a reasonable number of pro bono assignments when requested by the court, except when the attorney is employed by a government agency that precludes accepting pro bono assignments.

(4) *Admission Fee.* Once the court reviews an application and verifies the attorney's membership status with the Utah State Bar, the court will send to the attorney an email containing a link to pay the admission fee. The admission fee must be paid within 30 days from the date of the email or the application will be denied and the attorney must complete a new application.

(5) *Active Membership Status.* An attorney who is admitted to this court's bar must renew membership as set forth in [DUCivR 83-1.2](#). After an attorney is admitted, the attorney is not required to pay the annual registration fee until at least 12 months have passed since admission.

(b) Federal Attorney Admission.

(1) *Eligibility.* An attorney employed by the United States, its agencies, or the Federal Public Defender's Office, is an active member and in good standing in the bar of any state or the District of Columbia, may practice in this district in the attorney's official capacity.

(2) *Application.* An eligible federal attorney must complete an online application using PACER.

(3) *Pro Bono Service Requirement.* A federal attorney is exempt from the court's pro bono service requirement.

(4) *Fees.* A federal attorney is exempt from paying the admission and annual registration fees.

(c) Pro Hac Vice Admission.

(1) *Eligibility.* An attorney (PHV Applicant) who is neither an active member of the Utah State Bar nor a Federal Attorney but who is an active member in good standing in the bar of any state or the District of Columbia may be admitted pro hac vice for the limited purpose of appearing in a case in this district.

(A) Restrictions on Pro Hac Vice Admission. Pro hac vice admission is not available to any attorney who:

(i) is a member of the Utah State Bar;

(ii) maintains any law office in Utah; or

(iii) has already been admitted pro hac vice in 3 unrelated cases in the previous 5 years in this district, unless the court finds good cause for the attorney not seeking admission to the Utah State Bar.

(2) *Local Counsel.* The PHV Applicant must associate with an active, local member (Local Counsel) of this court's bar who resides in the State of Utah. Local Counsel must:

(A) file a motion seeking pro hac vice admission for the PHV Applicant;

(B) attach the application and a proposed order as exhibits;

(C) consent to appear in the matter; and

(D) pay the pro hac vice admission fee at the time of filing the motion. An attorney admitted pro hac vice may not appear without Local Counsel, unless the court orders otherwise.

(3) *Objection to PHV Admission.* A party opposing pro hac vice admission must file an objection within 14 days of the filing of the motion, even if the court has granted the motion. Local Counsel or the PHV Applicant need not file a response after an objection is filed unless ordered to do so by the court.

(4) *Revocation of PHV Admission.* The court may revoke a PHV Attorney's admission for good cause shown, including but not limited to, violation of this court's rules or failure to comply with court orders.

(d) Rules and Conduct.

(1) An attorney who practices in this court must comply with the Local Rules of Practice, District of Utah CM/ECF and Efiling Administrative Procedures Manual, Utah Rules of Professional Conduct, and Utah Standards of Professionalism and Civility. An attorney's conduct and professionalism are governed by these rules and the manual.

(2) An attorney who practices in this court must register to efile and receive electronic notifications of case activity.

(3) An attorney who practices in this court must maintain valid and current contact information, including mailing, email, and telephone, in PACER.

Credits

[Effective September 1, 1997. Amended effective December 1, 2006; September 1, 2008; December 1, 2009; December 1, 2010; December 1, 2012; December 1, 2013; December 1, 2015; December 1, 2016; December 1, 2017; December 1, 2018; December 1, 2020.]

[Notes of Decisions \(1\)](#)

U. S. Dist. Ct. Rules D.Utah, Civil DUCivR 83-1.1, UT R USDCT CIV DUCivR 83-1.1

Local federal district and bankruptcy court rules and ECF documents are current with amendments received through September 1, 2023. All other local federal district and bankruptcy court materials are current with amendments received through September 1, 2023.

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