

Proposal 05-09
Amends Supreme Court Rule 707
Offered by the Attorney Registration and Disciplinary Committee as modified by the
Supreme Court Committee on Professional Responsibility

Rule 707 Pro Hac Vice- Permission for Foreign Attorneys to Appear in Isolated Proceedings

~~Anything in these rules to the contrary notwithstanding, an attorney and counselor at law from any other jurisdiction in the United States, or foreign country, may in the discretion of any court of this State be permitted to participate before the court in the trial or argument of any particular cause in which, for the time being, he or she is employed.~~

(a) **Permission to Appear.** An applicant who is admitted to practice law in another state, territory, or commonwealth of the United States, in the District of Columbia, or in a foreign country may be permitted to appear as counsel in a proceeding in the State of Illinois, if the applicant meets the following qualifications and complies with the following application requirements. For a court proceeding, or court-annexed arbitration undertaken or conducted pursuant to Illinois Supreme Court Rule 86, the determination shall be made by the court before which the proceeding pends. For a proceeding before an agency of the State of Illinois, the determination shall be made by the agency.

(b) **Qualifications.** To be permitted to appear under the provisions of this rule, the applicant must establish each of the following qualifications:

- (1) the applicant must be currently authorized to practice law in another state, territory, or commonwealth of the United States, in the District of Columbia, or in a foreign country and not be disqualified from the practice of law by reason of discipline, including resignation with charges pending, in any jurisdiction in which the applicant has been admitted to practice law;
- (2) the applicant must not be an Illinois attorney disqualified from the practice of law in the State of Illinois by reason of discipline or registration status;
- (3) the applicant must be associated in the matter with an Illinois attorney who is active and authorized to practice law in Illinois by virtue of an Illinois license and who undertakes to represent the client as associate counsel and to file an appearance in that matter;
- (4) the applicant must not have engaged in such frequent appearances under this rule as to constitute regular practice in the State of Illinois;
- (5) the applicant must submit to the disciplinary authority of the Supreme Court of Illinois; and
- (6) the applicant must undertake to become familiar with and comply with the rules of the Supreme Court of Illinois, including the Illinois Rules of Professional Conduct, and other Illinois law and practice that pertain to the matter.

(c) Requirements of Application for Permission to Practice. The applicant must file as a matter of public record before the appropriate court or agency, as described in paragraph (a) above, a verified application for permission to practice and notice of hearing on the application and serve the application and notice upon all parties entitled to notice, the applicant's client, associate counsel, and the Administrator of the Attorney Registration and Disciplinary Commission. The notice of hearing shall be served at least 21 days before the time designated for the hearing, unless the court or agency has prescribed a shorter period. At the time of serving the application upon the Administrator, the applicant must submit to the Administrator a nonrefundable fee in the amount of \$250, except that no fee shall be due in criminal cases involving indigent defendants, in cases in which the applicant is employed by or associated with a *pro bono* project or nonprofit legal service organization in a civil case involving the client of such programs. The fee shall be deposited in the disciplinary fund maintained pursuant to Rule 751(e)(6) in recognition of the cost of review of the application and regulation of those permitted to practice under this rule. The application shall state or contain:

- (1) the applicant's full business address and telephone number and full details regarding any office or other presence in the State of Illinois;
- (2) all jurisdictions in which the applicant has been licensed, the full name under which the applicant has been licensed, any license or bar number, and the status of each such license;
- (3) whether the applicant has applied for permission to practice in Illinois under this rule in the preceding five years and, if so, the court or agency to which the application was directed, the case name and number, the date, and the disposition of each such application;
- (4) whether the applicant has been disciplined publicly or is the subject of a disciplinary proceeding and, if so, the status or disposition of any such disciplinary proceeding, including the case caption and jurisdiction for any disciplinary matter. (Applicant shall attach a copy of any final decision in such a proceeding);
- (5) whether the applicant has malpractice insurance as of the date of the application, and, if so, the dates of coverage for the policy;
- (6) an acknowledgment that the applicant is submitting to the disciplinary authority of the Supreme Court of Illinois, that the applicant has reviewed and will be subject to the Rules of the Supreme Court, including the Illinois Rules of Professional Conduct, and that the applicant has reviewed other Illinois law and practice that pertain to the matter;
- (7) the name, address, and registration status of the licensed Illinois attorney associated for purposes of the representation;
- (8) the signature of the licensed Illinois attorney, verifying that attorney's undertaking as associate counsel pursuant to paragraph (b)(3) above;
- (9) the party or parties represented in the matter and a confirmation that the applicant has notified the party or parties of the application;
- (10) a certificate of service of a verified application upon all entitled to notice; and
- (11) any additional information that may assist the court or agency in ruling upon the application.

(d) Administrator's Review of Application. The Administrator of the Attorney Registration and Disciplinary Commission shall conduct an inquiry into the application, including verifying its completeness and accuracy, focusing particularly on information regarding the applicant's licenses in

other jurisdictions. It shall be the duty of an applicant to respond expeditiously to requests for information from the Administrator. The Administrator shall file a report of the inquiry as a matter of public record before the court or agency within 21 days or such additional time as the court or agency may permit and shall serve the report upon the applicant and associate counsel.

(e) Ruling on Application. The court or agency shall consider the application and the report of the Administrator and determine whether the applicant's qualifications and application meet the requirements of the rule. In ruling on the application, the court or agency shall exercise its discretion and consider whether allowing or denying the application may be detrimental to the applicant's client(s), other parties in the matter, or the prompt, fair and efficient administration of justice. The court or agency shall enter an order as a matter of public record setting forth its ruling. If the court or agency determines that circumstances require, the court or agency may allow the application on an interim basis pending receipt of the report from the Administrator or further inquiry.

(f) Duration of Permission to Practice. The permission to practice law shall extend throughout the pendency of the proceeding unless earlier terminated. The court or agency may terminate the permission to practice upon its own motion or upon motion of the Administrator if it determines that grounds exist for termination. Grounds may include, but are not limited to, the conduct of the applicant in the matter, the failure of the applicant to maintain qualifications required under this rule, substantial inaccuracies or omissions in the application, or the absence of an Illinois attorney to serve as associate counsel. A separate application is required for permission to appear in each appeal or review of a proceeding in which an attorney appeared pursuant to this Rule, but no additional fee is required.

(g) Disciplinary Authority. The applicant shall be subject to the disciplinary authority of the Supreme Court for practice permitted under this rule. The applicant shall notify the Administrator of any change of address during the pendency of the matter for which the attorney is admitted. For purposes of a proceeding instituted under this rule, the address provided by the applicant shall be deemed to be the applicant's registration address for purposes of Supreme Court Rules 756 and 765 and Commission Rule 214.

(h) Disciplinary Proceedings. The Administrator may also institute disciplinary proceedings seeking to terminate permissions allowed under this rule or to enjoin the applicant from obtaining further permissions under this rule. Such proceedings shall proceed in accordance with disciplinary proceedings under Supreme Court Rule 753. The Administrator may also refer such matters to the disciplinary authority of any other jurisdiction in which the applicant may be licensed.