

LR Cr P 44.1. Admission of Attorneys

(a) Admission as member of bar of court

Any person who is admitted to practice before the Supreme Court of Appeals of West Virginia and who is in good standing as a member of its bar is eligible for admission as a member of the bar of this court. An eligible attorney may be admitted as a member of the bar of this court upon motion of a member (Sponsoring Attorney) who shall sign the register of attorneys with the person admitted. If the motion for admission is granted, the applicant shall take the attorney's admission oath or affirmation, sign the attorneys' register, and pay the clerk the admission fee.

Any person who has been subject to disciplinary suspension or disbarment by the West Virginia Supreme Court of Appeals but has been readmitted to practice by the Supreme Court and is in good standing as a member of its bar, is eligible for re-admission as a member of the bar of this court. The attorney may be re-admitted as a member of the bar of this court upon motion of a member (Sponsoring Attorney) who shall sign the register of attorneys with the person re-admitted. If the motion for re-admission is granted, the applicant shall take the attorney's admission oath or affirmation, sign the attorney's register, and pay the clerk the admission fee.

(b) Sponsorship of visiting attorneys by members of court

The Sponsoring Attorney must be a member of the bar of this court, have an office for the practice of law in West Virginia, and practice law primarily in West Virginia.

(c) Appearance by Assistant United States Attorneys and Assistant Federal Public Defenders

Any attorney employed by the United States Attorney or the Federal Public Defender for this judicial district must qualify as a member of the bar of this court within one year of his or her employment. Until so qualified, the attorney may appear and practice under the sponsorship of the appointing officer.

(d) Appearance by federal government attorneys

Federal government attorneys who are not members of the bar of this court need not complete the Statement of Visiting Attorney. In cases where the United States Attorney is associated with other government attorneys in proceedings involving the Federal

government, the United States Attorney (except in student loan collection cases), in addition to other Federal government attorneys, shall sign all pleadings, notices, and other papers filed and served by the United States. All pleadings, notices, and other papers involving the Federal government may be served on the United States Attorney in accordance with the service requirements of the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

LR Cr P 44.2. Legal Assistance by Law Students

(a) Written consent

With the written consent of an indigent and his or her attorney of record, an eligible law student may appear on behalf of that indigent. With the written consent of the United States Attorney or his or her representative, an eligible law student may also appear on behalf of the United States. With the written consent of the Federal Public Defender, an eligible law student may appear on behalf of the Federal Public Defender. With the written consent of the Attorney General of the State of West Virginia or his or her representative, an eligible law student may also appear on behalf of the State of West Virginia. In each case in which an eligible law student appears, the consent shall be filed with the clerk.

(b) Responsibilities of attorneys of record

An eligible law student may assist in the preparation of pleadings, briefs, and other documents to be filed in this court, but such pleadings, briefs, or documents must be signed by the attorney of record. An eligible law student may also participate in hearings, trials, and other proceedings with leave of court, but only in the presence of the attorney of record. The attorney of record shall assume personal professional responsibility for the law student's work. The attorney of record shall be familiar with the case and be prepared to supplement or correct any written or oral statement made by the law student.

(c) Eligibility requirements

To be eligible to appear pursuant to this rule, the law student must:

- (1) be enrolled in a law school approved by the American Bar Association;**

- (2) have successfully completed legal studies for at least 4 semesters, or the equivalent if the school is on some basis other than a semester basis;
- (3) be certified by the dean of his or her law school as being of good character and competent legal ability. The dean's certification shall be filed with the clerk. This certification may be withdrawn by the dean at any time without notice or hearing and without any showing of cause by notifying the clerk in writing, or it may be terminated by the court at any time without notice of hearing and without any showing of cause. Unless withdrawn or terminated, the certification shall remain in effect for 18 months after it has been filed with the clerk or until the law student has been admitted as a permanent member of the bar of this court, whichever is earlier;
- (4) certify in writing to the clerk that he or she has read the Code of Professional Conduct of the American Bar Association;
- (5) be introduced to the court by a permanent member of the bar of this court; and
- (6) neither ask for nor receive any compensation or remuneration of any kind for services from the party assisted, but this shall not prevent an attorney, legal services program, law school, public defender agency, the State of West Virginia, or the United States from paying compensation to the law student, nor from making appropriate charges for such services.

LR Cr P 44.3. Representation of Parties

Every party to proceedings in this court, except parties appearing *pro se*, shall be represented by a member of the bar of this court and may be represented by a Visiting Attorney and Sponsoring Attorney as provided in these rules. A corporation or unincorporated association cannot appear *pro se*.

LR Cr P 44.4. Termination of Representation

No attorney who has entered an appearance in any criminal action shall withdraw the appearance or have it stricken from the record, except by order.

LR Cr P 44.5. *Pro se* Appearances

A party who represents himself or herself shall file with the clerk his or her complete name and address where pleadings, notices, orders, and other papers may be served on him or her, and shall include his/her telephone number. A *pro se* party must advise the clerk promptly of any changes in name, address, and telephone number.

LR Cr P 44.6. Admission of Visiting Attorneys

(a) Procedure for admission

Any person who has not been admitted to practice before the Supreme Court of Appeals of West Virginia, but who is a member in good standing of the bar of the Supreme Court of the United States, the bar of the highest court of any other state in the United States, or the bar of the District of Columbia, shall be permitted to appear as a Visiting Attorney in a particular case in association with a Sponsoring Attorney as herein provided. The Sponsoring Attorney must be a member of the bar of this court, have an office for the practice of law in West Virginia, and practice law primarily in West Virginia. The Visiting Attorney shall file with the clerk, at or before his or her initial appearance (including signing a pleading), the Statement of Visiting Attorney adopted by order of this court, which is available from the clerk and on the court's website, and shall pay the Visiting Attorney fee. The Statement shall designate a Sponsoring Attorney, upon whom pleadings, notices, and other papers may be served. The Sponsoring Attorney shall consent to the designation and shall thereafter sign all papers that require the signature of an attorney. Any paper filed by a Visiting Attorney not in compliance with this Rule may be stricken from the record after 15 days' written notice transmitted to the Visiting Attorney at his or her address as known to the clerk. Upon compliance with this rule and introduction of the Visiting Attorney to the court by the Sponsoring Attorney, the Sponsoring Attorney, with the consent of the court, may be excused from further attendance during the proceedings and the Visiting Attorney may continue to appear in that particular case.

(b) Motion not required

Filing a properly completed Statement of Visiting Attorney and paying the Visiting Attorney fee constitute all steps necessary to qualifying as a Visiting Attorney for a particular case and no motion to appear as a Visiting Attorney is required.

(c) Payment of visiting attorney fee

(1) Fee payable to clerk

The court will charge a Visiting Attorney fee, payable to the Clerk, United States District Court, in an amount to be set by order. Pursuant to Judicial Conference policy, the fees will be used only for “purposes which inure to the benefit of the members of the bench and the bar in the administration of justice.” Other than library materials, the fees will not be used to supplement appropriated funds and will not be used to pay for materials or supplies available from statutory appropriations. The fees will be placed in a fund administered by the clerk as custodian of the fund. Disbursements will be made only at the direction of a committee, the members of which will be appointed by the Chief Judge, in accordance with a written plan.

(2) West Virginia State Bar *pro hac vice* fee

The *pro hac vice* fee imposed by the Supreme Court of Appeals of West Virginia applicable to Visiting Attorneys shall be paid to The West Virginia State Bar and is not payable to the clerk of the district court.

(d) Exceptions to payment of visiting attorney fee

(1) Miscellaneous cases

A Visiting Attorney who files a miscellaneous case which does not require judicial action (e.g., one filed in order to obtain a subpoena) is exempt from paying the Visiting Attorney fee, from associating with a Sponsoring Attorney, and from filing the Statement of Visiting Attorney. A Visiting Attorney who files a miscellaneous case which does require judicial action

(e.g., motion to compel testimony at a deposition) must comply with Rule 44.6.

(2) Federal government attorneys

Attorneys employed by the United States Department of Justice or any other Federal department or agency will not be required to pay the Visiting Attorney fee.

(3) Law students

Law students who participate in a case in accordance with these Rules will not be charged a Visiting Attorney fee .

(e) Waiver of payment of visiting attorney fee

A Visiting Attorney and his/her Sponsoring Attorney may file a motion requesting a waiver of the Visiting Attorney fee in a particular case or cases, for good cause shown. The motion will be decided by the judge assigned to the case; the motion should be filed within 20 days of the assignment of the case to the judge. If a waiver is granted, the Visiting Attorney will pay such Visiting Attorney fee in an amount as ordered by the presiding district judge.

(f) Revocation of visiting attorney privilege

For good cause, the presiding district judge may revoke the privilege of an attorney to be a Visiting Attorney in one or more specified cases.