

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENTS  
TO SUPREME COURT RULE 42  
RELATING TO ATTORNEYS NOT  
ADMITTED IN NEVADA

ADKT 0618

FILED

MAY 29 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY [Signature]  
CHIEF DEPUTY CLERK

*ORDER AMENDING SUPREME COURT RULE 42*

WHEREAS, on February 20, 2024, the Board of Governors of the State Bar of Nevada filed a petition seeking to amend Supreme Court Rule (SCR 42) relating to the practice of attorneys not admitted to Nevada; and

WHEREAS, this court solicited public comment on the petition and a public hearing was held in this matter on March 21, 2024; accordingly,

IT IS HEREBY ORDERED that the proposed amendments to SCR 42 shall be adopted and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that the amendments to SCR 42 shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the *Nevada Reports* and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of

this order shall be conclusive evidence of the adoption and publication of the foregoing rules.

Dated this 29<sup>TH</sup> day of May, 2024.

Cadish, C.J.  
Cadish

Stiglich, J.  
Stiglich

Pickering, J.  
Pickering

Herndon, J.  
Herndon

Lee, J.  
Lee

Parraguirre, J.  
Parraguirre

Bell, J.  
Bell

cc: Julie Cavaugh-Bill, President, State Bar of Nevada  
Kimberly Farmer, Executive Director, State Bar of Nevada  
All District Judges  
Clark County Bar Association  
Washoe County Bar Association  
First Judicial District Bar Association  
Elko County Bar Association  
Douglas County Bar Association  
Administrative Office of the Courts

## EXHIBIT A

### AMENDMENT OF SUPREME COURT RULE 42

#### **Rule 42. Practice of attorneys not admitted in Nevada.**

##### **1. Application of rule.**

(a) This rule applies to:

(1) All actions or proceedings pending before a court in this state;

(2) All actions or proceedings pending before an administrative agency or governmental body in this state, unless that agency or governmental body provides otherwise;

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

(4) All services incident to any of these **[proceedings including,]** *proceedings, including* but not limited **[to,]** *to* discovery and settlement negotiations.

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

**2. Who may apply.** A lawyer who has been retained to represent a client in this state in an action or proceeding set forth in subsection 1(a) of this rule may file a written application to appear as counsel in that action or proceeding if the following conditions are met:

(a) The lawyer is not a member of the State Bar of Nevada;

(b) The lawyer is not a resident of the State of Nevada;

(c) The lawyer is not regularly employed in the State of Nevada;

(d) The lawyer is not engaged in substantial business, professional, or other activities in the State of Nevada;

(e) The lawyer is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and

(f) The lawyer associates an active member in good standing of the State Bar of Nevada as counsel of record in the action or proceeding.

**3. Procedure for applying.** A lawyer who meets the requirements of subsection 2 of this rule may appear in an action or proceeding subject to this rule only upon the approval of the court, arbitrator, mediator, or administrative or governmental hearing officer where the action or proceeding is pending. The following procedure must be used:

(a) **Verified application.** The lawyer must file with the State Bar of Nevada at its Las Vegas, Nevada, office:

(1) An original [~~and 1 copy of a~~] verified application as provided in subsection 4 of this rule;

(2) A certificate from the state bar or from the clerk of the supreme court or highest admitting court of each state, territory, or insular possession of the United States in which the applicant has been admitted to practice law certifying the applicant's membership therein; and

(3) A non-refundable application fee of [~~\$550.00,~~] \$550 or an application for waiver of fees as provided in subsection 3(e) of this rule.

(b) **State bar statement.** Upon receipt of the verified application, certificate(s) of good standing, and fee or application for waiver of fees as described in subsection 3(a) of this rule, the State Bar of Nevada shall:

(1) Serve upon the Nevada counsel associated with the applicant, a statement [~~which~~] *that* states:

(i) Whether the applicant has previously made any application or motion under this rule within the preceding 3 years;

(ii) The date of any such application or motion; and

(iii) Whether the application was granted or denied.

(2) Include as exhibits attached to the statement:

(i) The original verified application;

(ii) The original certificate(s) of good standing;

(iii) A form motion to associate counsel; and

(iv) A form order granting or denying such motion.

(3) Retain copies of verified applications and certificate(s) of good standing for 3 years.

**(c) Motion to associate.**

(1) The Nevada lawyer associated with the applicant shall file the motion to associate with the court, arbitrator, mediator, or administrative or governmental hearing officer where the proceeding is pending. The motion shall include proof of service of a copy of the motion on all parties in accordance with the Nevada Rules of Civil Procedure.

(2) The motion to associate shall include the following exhibits:

(i) The original verified application;

(ii) The original certificate(s) of good standing; and

(iii) The state bar statement.

(3) The motion to associate shall be accompanied by a proposed order granting or denying the motion to associate.

(4) Nevada counsel of record associated with the applicant shall serve a copy of any order granting or denying a motion to associate on the State Bar of Nevada at its Las Vegas, Nevada, office.

(d) **Appearance and consent of Nevada counsel.** Before a motion to associate counsel is granted, the active member of the State Bar of Nevada who will be associated with the applicant must appear as attorney of record in the particular cause and consent in writing to the association.

(e) **Limited exception to original and annual fee.** Upon a showing that the applicant is providing pro bono services in a death penalty habeas corpus ~~[ease]~~ *case, acting in other circumstances providing pro bono representation, or representing a party in a case subject to the Indian Child Welfare Act (ICWA)*, the court, arbitrator, mediator, or administrative or governmental agency may waive the original fee required by subsection 3(a) of this rule and the annual renewal fee required by subsection 9 of this rule. An applicant may obtain an application for waiver of these fees from the State Bar of Nevada and shall file the completed waiver application with the original verified application seeking admission under this rule.

4. **Verified application.** The verified application required by this rule shall be on a form approved by the State Bar of Nevada. The approved application forms shall be available at the county clerk's office of the court, arbitrator, mediator, or administrative or governmental agency where the action is pending. The application shall state:

(a) The applicant's ~~[residence and]~~ office ~~[address;]~~ *address, email address, and phone number;*

(b) The court or courts to which the applicant has been admitted to practice and the date of such admission;

(c) That the applicant is a member in good standing of such court or courts;

(d) That the applicant is not currently suspended or disbarred in any court;

(e) Whether the applicant is currently subject to any disciplinary proceedings by any organization with authority to discipline attorneys at law;

(f) Whether the applicant has ever received public **[discipline including,]** *discipline, including* but not limited **[to,]** *to* suspension or disbarment, by any organization with authority to discipline attorneys at law;

(g) The title of the court and cause, including arbitrations, mediations, or matters before an administrative agency or governmental body, in which the applicant **[or any member of the firm of attorneys with which the applicant is associated]** has filed an application to appear as counsel under this rule in the preceding 3 years, the date of each application, and whether it was granted;

(h) The name, address, and telephone number of the active member of the State Bar of Nevada who is the attorney of record;

(i) **[The name of each party and the name and address of counsel of record who appeared for that party;**

**g)]** That the applicant certifies that he or she shall be subject to the jurisdiction of the courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada;

**[(k)]** (j) That the applicant understands and shall comply with the standards of professional conduct required of members of the State Bar of Nevada; and

**[(4)]** (k) That the applicant has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

**5. Appearances by out-of-state counsel.** An applicant shall not appear in a proceeding subject to this rule until the court, arbitrator, mediator,

or administrative or governmental agency where the action is pending enters an order granting the motion to associate.

**6. Discretion.** The granting or denial of a motion to associate counsel under this rule is discretionary. The court, arbitrator, mediator, or administrative or governmental hearing officer may revoke the authority of the person permitted to appear as counsel under this rule to make continued appearances under this rule. Absent special circumstances, repeated appearances by any person or firm of attorneys under this rule shall be cause for denial of the motion to associate such person.

(a) **Limitation.** It shall be presumed, absent special circumstances, and only upon a showing of good cause, that more than **[5]** *five* appearances by any attorney granted under this rule in a 3-year period is excessive use of this rule.

(b) **Burden on applicant.** The applicant shall have the burden to establish special circumstances and good cause for an appearance in excess of the limitation set forth in subsection 6(a) of this rule. The applicant shall set forth the special circumstances and good cause in an affidavit attached to the original verified application.

(c) **Finding of special circumstance.** Before permitting an appearance in excess of the limitation set forth in paragraph 6(a) of this rule, the reviewing court shall specifically state facts established by the applicant **[which]** *that* support a finding of special circumstances, and the reviewing court shall also state the exact nature of the special circumstances. The specific facts found and unique details of the special circumstances shall be included in the admitting order. An applicant's appearance in excess of the limitation set forth in paragraph 6(a) of this rule shall be a rare exception granted only in truly extraordinary circumstances. The court shall send copies of all such orders to the State Bar of Nevada and the clerk of the Nevada Supreme Court.

7. **Transfer.** Once a motion to associate under this rule has been granted, the attorney shall be deemed admitted in the event venue in the action is transferred to another district court or in the event such action is **[appealed;]** *appealed*, provided, however, that the court having jurisdiction over such transferred or appealed cause may revoke the attorney's authority to appear.

8. **Supreme court.** Appearance before the Supreme Court of Nevada in the first instance shall be by motion as provided in subsection 3 of this rule. If the motion is opposed, there may be a hearing; otherwise, the supreme court shall consider the matter without a hearing.

9. **Renewal of application.** On or before the anniversary date of the filing of the verified application with the State Bar of Nevada:

(a) The Nevada counsel of record must certify to the State Bar of Nevada that:

(1) The out-of-state counsel continues to act as counsel in the cause; or

(2) The cause has been finally adjudicated.

(b) In the event that out-of-state counsel continues to act as counsel in the cause, out-of-state counsel shall remit to the State Bar of Nevada an annual fee of **[\$500.00]** \$500 within 30 days of the anniversary date.

10. **Failure to renew.**

(a) Any out-of-state counsel who continues to act as counsel in a proceeding subject to this rule and fails to pay the renewal fees set forth in subsection 9 of this rule shall be suspended from appearing in any proceeding subject to this rule upon expiration of a period of 30 days after the anniversary date.

(b) The executive director of the State Bar of Nevada shall notify the out-of-state counsel and the Nevada counsel of record of the suspension and shall file a certified copy of the notice with the court, arbitrator, mediator, or administrative agency or governmental body where the proceeding is filed, and with the clerk of the Supreme Court of Nevada.

**11. Reinstatement.**

(a) The out-of-state counsel may be reinstated upon the payment of the fees set forth in subsection 9 of this rule and a late penalty of ~~[\$50.00.]~~ \$50.

(b) Upon payment of all accrued fees and the late penalty, the executive director may reinstate the out-of-state counsel, and shall thereupon certify such reinstatement to the court, arbitrator, mediator, or administrative agency or governmental body where the proceeding is filed, with the county clerk of each county, and with the clerk of the Supreme Court of Nevada.

**12. Reporting by the state bar.**

(a) The State Bar of Nevada shall prepare an annual report listing:

(1) All applications filed under this rule during the preceding 12 months;

(2) The names of all applicants; and

(3) Whether the motions to associate were granted or denied.

(b) The annual report shall be kept on file at the State Bar of Nevada and be available for review by each county clerk, court clerk, district judge, the clerk of the Supreme Court of Nevada, and by such other persons as directed by the board of governors.

**13. Discipline of out-of-state counsel.**

(a) Out-of-state counsel appearing under this rule shall be subject to the jurisdiction of the courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as

a member of the State Bar of Nevada. Counsel shall become familiar and comply with the standards of professional conduct required of members of the State Bar of Nevada and shall be subject to the disciplinary jurisdiction of the State Bar of Nevada.

(b) The rules of the Supreme Court of Nevada shall govern in any investigation or proceeding conducted by the State Bar of Nevada under this rule.

**14. Responsibilities of Nevada attorney of record.**

(a) The Nevada attorney of record shall be responsible for and actively participate in the representation of a client in any proceeding that is subject to this rule.

(b) The Nevada attorney of record shall be present at all motions, pre-trials, or any matters in open court unless otherwise ordered by the court.

(c) The Nevada attorney of record shall be responsible to the court, arbitrator, mediator, or administrative agency or governmental body for the administration of any proceeding that is subject to this rule and for compliance with all state and local rules of practice. It is the responsibility of Nevada counsel to ensure that the proceeding is tried and managed in accordance with all applicable Nevada procedural and ethical rules.

**15. Rule provides exclusive procedure.** Except as provided in this rule, an attorney admitted to practice in another jurisdiction shall not be admitted to practice law in the State of Nevada by motion or on the basis of reciprocity. Attorney applicants must make application for admission and be examined in accordance with Rules 49 to 75, inclusive, in the same manner as all other applicants.