

Amendments to Rule 1.10 and Rule 116 Rules Relating to Admission Pro Hac Vice

The Kansas Supreme Court is accepting public comment on proposed amendments to Rule 1.10: Admission Pro Hac Vice of Out-of-State Attorney Before the Kansas Appellate Courts and Rule 116: Admission Pro Hac Vice of Out-of-State Attorney.

The proposed amendments include the following changes:

- increasing the fee to \$300 when an out-of-state attorney requests to practice law in the appellate courts or a district court;
- removing the requirement to include the out-of-state attorney’s residential address on the verified application;
- clarifying that the Kansas attorney must file all documents in the case;
- clarifying the procedure for moving to waive the admission fee; and
- restyling the rules to align with other Supreme Court rules.

The court uses strikethrough to show deletions and underlining to show new language.

You may comment on the proposed amendments by email to scrulespubliccomment@kscourts.org until 5 p.m. October 4, 2024. You must include “Rules 1.10 and 116” in the subject line.

ADMISSION PRO HAC VICE OF OUT-OF-STATE ATTORNEY ~~BEFORE THE~~ KANSAS APPELLATE COURTS

- (a) **Eligibility for Admission ~~Pro Hac Vice~~.** An attorney not admitted to practice law in Kansas may ~~be admitted on motion~~ request admission to practice law in ~~a the~~ the Kansas appellate courts ~~—for a particular specific case only—~~ if the attorney meets the following requirements:
- (1) has an active law license from the highest court of ~~is regularly engaged in practicing law in another state,~~ the District of Columbia, or a United States territory, ~~or the District of Columbia;~~

- (2) is in good standing under the rules of ~~the highest appellate court in that~~ jurisdiction; and
 - (3) ~~associates~~ shows association with an Kansas attorney of record in the case who: is registered as active under Supreme Court Rule 206
 - (A) ~~is regularly engaged in practicing law in Kansas;~~ and
 - (B) ~~is in good standing under the Kansas Supreme Court Rules.~~
- (b) **Kansas Attorney's Duties.** The Kansas attorney of record under subsection (a)(3) must fulfill the following duties:
- (1) ~~be~~ actively engaged in the case;
 - (2) sign and file all pleadings, documents, and briefs under Supreme Court Rules 1.12 and 1.14; and
 - (3) attend any ~~be present at a~~ prehearing conference or oral argument, ~~if scheduled.~~
- (c) ~~Service.~~ Service of a paper in a case on the Kansas attorney of record under subsection (a) has the same effect as if personally served on the attorney admitted pro hac vice.
- (cd) **Pro Hac Vice Motion.** An out-of-state attorney must request separate motion for admission pro hac vice ~~must be filed~~ for each appellate case.
- (1) **Requirements.** The following requirements apply to the motion for admission pro hac vice. ~~must be:~~
 - (A) ~~filed by~~ The Kansas attorney must file the motion. ~~of record;~~
 - (B) ~~accompanied by~~ The motion must include the out-of-state attorney's verified application, ~~complying with~~ under subsection (de);
 - (C) The Kansas attorney must filed with the clerk of the appellate courts when the case is docketed or, if the motion as soon as possible but relates to briefing or oral argument, no later than the date the out-of-state attorney appears on any document filed in the case or 15 days before the out-of-state attorney appears at any prehearing conference ~~brief due date or oral argument, date; and~~

- (D) The Kansas attorney must served the motion on all parties and on the client the out-of-state attorney's client seeks to represent in the appellate court.
- (2) **Denial of Motion.** ~~If the~~ An appellate court must specify the reason for denying any pro hac vice ~~denies the motion, it must state reasons for the denial.~~
- (de) **Verified Application.**
- (1) **Contents.** ~~An~~ The out-of-state attorney must include the following information in the attorney's verified application for admission pro hac vice must include:
- (A) ~~a statement identifying the~~ client party or parties represented;
- (B) ~~the~~ Kansas attorney's name; attorney registration number; business address; telephone number; email address; and fax number, e-mail address, and Kansas attorney registration number of the Kansas attorney of record if any;
- (C) ~~the~~ out-of-state attorney's applicant's residence address and business address; telephone number; fax number, and e-mail address; and fax number, if any;
- (D) ~~all jurisdictions that have the bar(s) to which the applicant is admitted; the out-of-state attorney to the practice of law and the date(s) of admission; and the applicable attorney registration number(s);~~
- (E) ~~a statement that the~~ out-of-state attorney applicant is a member in good standing of each bar under the rules of each jurisdiction identified under subsection (d)(1)(D);
- (F) ~~a statement that the~~ out-of-state attorney has never received applicant has not been the subject of prior public discipline, including suspension, or disbarment, or loss of license, in any jurisdiction;
- (G) ~~a statement that the~~ out-of-state attorney has no pending attorney applicant is not currently the subject of a disciplinary complaint in any action or investigation in any jurisdiction or, if the applicant is currently the subject of a disciplinary action or investigation, the

~~application must provide a detailed description of the pending complaint the nature and status of the action or investigation and the address of the disciplinary authority in charge; and~~

(H) ~~if applicable, the case name, case number, and the court where the out-of-of state attorney in which the applicant has been granted permission to appeared pro hac vice in Kansas within the preceding last 12 months, if any.~~

(2) **Obligation to Report Changes.** ~~The applicant out-of-state attorney has a continuing obligation to notify the clerk of the appellate courts if of any change occurs in any of the information the attorney provided in the application.~~

(ef) **Fee.** ~~The attorney must submit a A-non-refundable fee of \$1300, payable to the clerk of the appellate courts, must accompany a with each motion for admission pro hac vice in each case.~~

(1) **Disciplinary Fee Fund.** The Office of the Clerk of the Appellate Courts will forward the fee to the Office of Judicial Administration, which will deposit the fee in the disciplinary fee fund.

(2) **Waiver.** The Kansas An attorney representing the government or an indigent party may move the court to for good cause for waiver of the fee if the out-of-state attorney represents the government or an indigent party. The Kansas attorney must move for waiver before filing the motion for admission pro hac vice.

(f) **Service.** Serving a document on the Kansas attorney has the same effect as personally serving the document on the attorney admitted pro hac vice.

(g) **Consent to Disciplinary Jurisdiction.** ~~By applying for admission pro hac vice under this rule, a~~An out-of-state attorney who is admitted under this rule consents to the exercise of disciplinary jurisdiction by the Kansas appellate courts under Supreme Court Rule 202(a)(5).

(h) **Appearance Pro Se by Self-Represented Litigant.** This rule does not prohibit a party from appearing before an appellate court on the party's own behalf.

Rule 116

ADMISSION PRO HAC VICE OF OUT-OF-STATE ATTORNEY

- (a) **Eligibility for Admission ~~Pro Hac Vice~~.** An attorney not admitted to practice law in Kansas may ~~be admitted on motion~~ request admission to practice law in a Kansas district court or an administrative tribunal—~~for a particular specific case only~~—if the attorney meets the following requirements:
- (1) has an active law license from the highest court of ~~is regularly engaged in practicing law in another state, the District of Columbia, or a United States territory, or the District of Columbia;~~
 - (2) is in good standing under the rules of ~~the highest appellate court in that~~ jurisdiction; and
 - (3) ~~is associated~~ with an Kansas attorney of record in the case who: is registered as active under Supreme Court Rule 206
- ~~(A)~~—~~is regularly engaged in practicing law in Kansas; and~~
- ~~(B)~~—~~is in good standing under the Kansas Supreme Court Rules.~~
- (b) **Kansas Attorney's Duties.** The Kansas attorney of record under subsection (a)(3) must fulfill the following duties:
- (1) ~~be~~ actively engaged in the case;
 - (2) sign and file all pleadings, and other documents, and briefs;
 - (3) be present throughout all court or administrative ~~appearances~~ proceedings; and
 - (4) attend ~~each~~ any deposition or mediation unless excused by the court or tribunal or under a local rule.
- ~~(c)~~—**Service.** ~~Service of a document in a case on the Kansas attorney of record under subsection (a) has the same effect as if personally served on the attorney admitted pro hac vice.~~
- ~~(cd)~~ **Pro Hac Vice Motion.** An out-of-state attorney must request separate motion for admission pro hac vice ~~must be filed~~ for each case.

- (1) **Requirements.** The following requirements apply to the motion for admission pro hac vice. must be:
- (A) ~~filed by~~ The Kansas attorney must file the motion. of record;
 - (B) ~~accompanied by~~ The motion must include the out-of-state attorney's verified application, complying with under subsection (de);
 - (C) ~~The Kansas attorney must filed with the motion court or administrative tribunal in which the case is pending as soon as reasonably possible but no later than the date the out-of-state attorney appears on any document filed in the case files a pleading or appears personally at any proceeding.; and~~
 - (D) The Kansas attorney must served the motion on all counsel of record, unrepresented parties not in default for failure to appear, and the client the out-of-state attorney's client seeks to represent.
- (2) **Denial of Motion.** ~~If the A district court or an administrative tribunal must specify the reason for denying any pro hac vice denies the motion, it must state reasons for the denial.~~

(de) **Verified Application.**

- (1) **Contents.** ~~An~~ The out-of-state attorney must include the following information in the attorney's verified application for admission pro hac vice must include:
- (A) ~~a statement identifying the client party or parties represented;~~
 - (B) the Kansas attorney's name;; attorney registration number; business address;; telephone number;; fax number, e-mail address;; and fax number, if any Kansas attorney registration number of the Kansas attorney of record;
 - (C) the out-of-state attorney's applicant's residence address and business address;; telephone number;; e-mail address; and fax number, if any and e-mail address;
 - (D) all jurisdictions that have each bar to which the applicant is admitted; the out-of-state attorney to the practice of law and the dates of admission to each bar, and each applicable attorney registration numbers;

- (E) a statement that the out-of-state attorney applicant is a member in good standing of each bar under the rules of each jurisdiction identified under subsection (d)(1)(D);
 - (F) a statement that the out-of-state attorney has never received applicant has not been the subject of prior public discipline, including suspension, or disbarment, or loss of license, in any jurisdiction;
 - (G) a statement that the out-of-state attorney has no pending attorney applicant is not currently the subject of a disciplinary complaint in any action or investigation in any jurisdiction or, if the applicant is currently the subject of a disciplinary action or investigation, a detailed description of the pending complaint the nature and status of the action or investigation and the address of the disciplinary authority in charge; and
 - (H) ~~if applicable, the case name, case number, and the court where the~~ out-of-state attorney in which the applicant has been granted permission to appear pro hac vice in Kansas within the preceding last 12 months, if any.
- (2) **Obligation to Report Changes.** ~~The applicant out-of-state attorney has a continuing obligation to notify the district court or administrative tribunal if~~ of any change occurs in any of the information the attorney provided in the application.
- (ef) **Fee; District Court.** ~~The attorney must submit motion under subsection (d) must be accompanied by a non-refundable fee of \$1300, payable to the clerk of the~~ district court, with each motion for admission pro hac vice.
- (1) **Disciplinary Fee Fund.** The clerk of the district court will forward the fee to the Office of Judicial Administration, which will deposit the fee in the disciplinary fee fund.
 - (2) **Waiver.** ~~An administrative tribunal may impose a similar fee. The Kansas attorney of record may seek~~ move the court to waiver of the fee for good cause— if the out-of-state attorney represents the government or an indigent party. The Kansas attorney must move for waiver before filing the motion for admission pro hac vice.

- (f) **Fee; Administrative Tribunal.** An administrative tribunal may impose a similar fee as provided in subsection (e).
- (g) **Service.** Serving a document on the Kansas attorney has the same effect as personally serving the document on the attorney admitted pro hac vice.
- (hg) **Consent to Disciplinary Jurisdiction.** ~~By applying for admission pro hac vice under this rule, a~~ An out-of-state attorney who is admitted under this rule consents to the exercise of disciplinary jurisdiction ~~by Kansas courts and administrative tribunals~~ under Supreme Court Rule 202(a)(5).
- (ih) **Appearance Pro Se by Self-Represented Litigant.** This rule does not prohibit a party from appearing before a district court or an administrative tribunal on the party's own behalf.
- (ji) **Exemption for Out-of-State Attorney in Qualifying Indian Child Welfare Act Proceeding.** The following provisions apply in a Qualifying Indian Child Welfare Act proceeding.
- (1) ~~Association with Kansas Attorney and Fee Not Required; Other Inapplicable Provisions.~~ If a court determines that an out-of-state attorney has met the requirements under paragraph (2):
- (A) ~~the out-of-state attorney is not required to associate with a Kansas attorney of record under subsection (a)(3);~~
- (B) ~~the out-of-state attorney is not required to pay the fee established under subsection (f); and~~
- (C) ~~subsections (b), (c), and (d)(1)(A) are inapplicable.~~
- (12) **Exemption Requirements.** ~~To qualify for the exemptions under paragraph (1), the~~ An out-of-state attorney ~~must establish~~ is not required to associate with a Kansas attorney of record under subsection (a)(3) or to pay the fee under subsection (e) if a district court determines that the attorney qualifies for an exemption. To qualify, the attorney must establish the following requirements:
- (A) ~~that~~ the attorney seeks to appear in a Kansas court for the limited purpose of participating in a child custody proceeding as defined by 25 U.S.C. § 1903, under the Indian Child Welfare Act of 1978, 25 U.S.C. § 1901 et seq.;

(B) ~~that the attorney represents a parent or an Indian tribe, parent, or Indian custodian, as each of those terms is defined by 25 U.S.C. § 1903;~~

(C) the Indian tribe has affirmed the child's membership or eligibility for membership under tribal law; and

(DC) one of the following:

~~(i) if the attorney represents an Indian tribe, the tribe has asserted its the tribe's intent to intervene and participate in the state court proceeding and affirming the child's membership or eligibility for membership under tribal law or~~

~~(ii) if the attorney represents a parent or Indian custodian, the tribe has affirmed the child's membership or eligibility for membership under tribal law.~~

(2) **Inapplicable Provisions.** Subsections (b), (c)(1)(A), and (g) are inapplicable when an out-of-state attorney qualifies for an exemption under subsection (j)(1).