

## Pro Hac Vice Rules & FAQ's

### 2016 AMENDED RULES FOR ADMISSION TO THE BAR OF MONTANA

*Supreme Court of the State of Montana, amended by Order AF 11-0244, December 17, 2015 & June 7, 2016.*

#### VI. PRO HAC VICE

A. Upon written application, an attorney who is not admitted to practice law in the state courts of Montana and who is at the time admitted and authorized to practice law in the highest court of another state may, with leave of the presiding court, appear pro hac vice in any action or proceeding, if an attorney admitted to practice in the courts of Montana is associated as attorney of record.

B. An attorney may not appear pro hac vice under this Rule if the attorney is a resident of Montana, is regularly employed in Montana, or is engaged in the practice of law or in substantial business or professional activities in Montana, unless the attorney has an application for admission pending with the Bar Admissions Administrator.

C. Upon an attorney or firm's second appearance pro hac vice, no further pro hac vice appearances are permitted except upon a showing of good cause. Findings of good cause to exceed the two-appearance limit are not to be routinely granted. For purposes of this Rule, "good cause" includes, by way of example only, a showing that the attorney or firm seeking to appear pro hac vice possesses experience or expertise not commonly available in the membership of the State Bar of Montana or where the attorney or firm is acting as counsel in a multistate class action. For purposes of this Rule, only those appearances made after November 17, 1998, will be considered.

D. Applications for pro hac vice appearance must be obtained from the Bar Admissions Administrator. The application form must require that the applicant provide the following information:

1. the applicant's residence and office addresses;
2. the state and federal courts in which the applicant has been admitted to practice and the dates of admission;
3. whether the applicant is a member in good standing in those courts;
4. whether the applicant is currently suspended or disbarred in any court and, if so, a description of the circumstances under which the suspension or disbarment occurred;
5. whether the applicant is the subject of any written complaints pending before a disciplinary agency in any jurisdiction and, if so, a description of the nature and status of any pending disciplinary complaints, including a copy of the complaint;
6. an identification of all law firms with which the applicant is associated and a description of all pending pro hac vice appearances of the applicant's firm(s) in Montana;
7. the title of each state court and cause in which the applicant has filed an application to appear as counsel pro hac vice, the date of each application, and whether it was granted;

8. the name, address, and telephone number of the active member of the State Bar of Montana who is the attorney of record;

9. an affirmation that the applicant will comply with the applicable statutes, law, and procedural rules of the state of Montana; be familiar with and comply with the Montana Rules of Professional Conduct; and submit to the jurisdiction of the Montana courts, the Montana disciplinary process, and the State Bar of Montana with respect to acts and omissions occurring during appearances under this Rule; and

10. whether payment has been made in accordance with the requirements of Rule

E. The completed application, along with a fee equal to the annual amount paid by active members of the Montana Bar, must be filed with the Bar Admissions Administrator.

F. The application will be reviewed by the Bar Admissions Administrator, who shall certify the number of prior appearances the applicant has been granted under Rule VI.C., whether the applicant has provided the required information, whether the applicant is in good standing in the other jurisdiction(s) where admitted, and whether Montana counsel is in good standing.

G. Upon certification, the Bar Admissions Administrator shall forward the application to the appropriate court or agency. The court or agency shall enter an order granting or refusing the application and, if the applicant is refused, the court or agency shall state its reasons. The court or agency shall mail a copy of the order to the applicant, counsel of record, and the Bar Admissions Administrator.

H. The Bar Admissions Administrator shall maintain a record of all pro hac vice applications as a public record. Attorneys appearing pro hac vice shall notify the Bar Admissions Administrator upon conclusion of the matter in which the attorney appeared.

I. An attorney appearing pro hac vice under this Rule is subject to the jurisdiction of the Montana courts and agencies with respect to Montana law governing the conduct of attorneys to the same extent as an attorney admitted to practice in the courts of this state. The attorney appearing pro hac vice shall comply with the Montana Rules of Professional Conduct and is subject to the disciplinary jurisdiction of the Montana Supreme Court. The court or agency in which an attorney is appearing pro hac vice or the Montana Supreme Court may, for violations of Montana law, the Montana Rules of Professional Conduct, Rules for Admission to the Bar of Montana, or orders of the court, withdraw its permission for an attorney to appear pro hac vice.

J. Montana attorneys of record shall sign all pleadings, motions, and briefs and participate actively in all phases of the case, including, but not limited to, attendance at depositions and court or agency proceedings, preparation of discovery responses and briefs, and all other activities necessary to be prepared to go forward with the case at all times. A district court or agency, upon motion by local counsel, may waive this Rule based upon a showing of extraordinary circumstances. Upon waiver of the Rule by the district court or agency, all papers subsequently filed shall be signed by counsel actively involved in the case. Such a waiver is not to be routinely granted.

K. Attorneys admitted pro hac vice shall continue to pay annual dues and fees as provided in Rule I.G.6. while the case is pending.

[Pro Hac Vice Application](#) – please allow 3-5 business days for processing once received.

## Pro Hac Vice Frequently Asked Questions

**How do I file for pro hac vice and what is the fee?** An application needs to be sent along with \$515 per attorney to the State Bar of Montana. Attorneys admitted pro hac vice will continue to pay annual dues and fees each year for the term of the Montana litigation or until such time that the State Bar of Montana is advised that the attorney has withdrawn from representation. However, for a lawyer who is appearing pro bono as defined under Rule 6.1 of the Rules of Professional Conduct, the pro hac vice fee shall be a one-time-only fee equal to the amount paid annually by active members of the Montana Bar.

**What is the process after you receive my application?** The rules above and the application will provide more information. The Bar will then verify that all attorneys are in good standing in the states they're currently licensed and the number of appearances had by the attorney and their firm. Letters will be mailed to the attorneys and the clerk advising of the status of this information. Local counsel will file a motion for the applicant to appear. (The State Bar does not approve or deny applications, as that is up to the discretion of the court hearing the matter.)

**What do I file with the Court?** In most courts, the local counsel vice will need to file a motion and proposed order; the court will grant or deny the appearance. (The clerk of court will notify the State Bar whether the court approved or denied the appearance.)

**Will I be reminded when the annual assessment is due each year?** Yes, the Bar will send an invoice to each pro hac vice attorney until we're notified that the matter has been settled or closed. The invoice will show the amount of the dues and fees payable.

**Do I need to file an application if my case is in federal court?** Not with the State Bar of Montana. For information about filing pro hac vice in the US Courts in Montana, please go to their website at <https://www.mtd.uscourts.gov/>

**Is payment of dues necessary when case is stayed:** A lawyer who has been admitted pro hac vice under the Bar admission rules continues under that status until the conclusion of the legal matter for which she or he has been admitted—unless the lawyer properly withdraws before the conclusion of the case. There is no exception regarding the procedural posture of the case.

**What is the procedure if local counsel withdraws who is supervising an attorney appearing pro hac vice?** The Court has a great amount of latitude whether to allow withdrawal of local counsel and assumption of not only the case by new counsel, but the duties of local counsel to supervise the pro hac attorney. Rule F of the Pro Hac Vice Rules state as follows: "Montana attorneys of record shall sign all pleadings, motions and briefs and participate actively in all phases of the case, including, but not limited to, attendance at depositions and court or agency proceedings, preparation of discovery responses and briefs and all other activities necessary to be prepared to go forward with the case at all times. A district court or agency, upon motion by local counsel, may waive this rule based upon a showing of extraordinary circumstances. Upon waiver of