

NEWS RELEASE

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Supreme Court of Pennsylvania

New Rules Establish More Standardized and Efficient Procedures for Out-of-State Lawyers

HARRISBURG, June 29, 2007 — The Supreme Court of Pennsylvania has created a uniform process for eligible out-of-state lawyers to apply for permission to participate in a particular case in the Commonwealth.

Separate orders to amend rules governing civil case procedures and attorney professional conduct were issued today by the Supreme Court with the aim of establishing a standardized method for determining eligibility to practice in Pennsylvania as counsel *pro hac vice* — a legal term meaning “for this occasion.” The orders take effect Sept. 4. They are posted on the web at: www.courts.state.pa.us.

In addition to the new standards, the court also adopted a first-time-ever fee for *pro hac vice* admission, and designated the proceeds to go to the Interest On Lawyers Trust Account program, which funds civil legal services for Pennsylvanians who cannot afford to pay for those services. The fee applies to those practicing in the state’s trial and appellate courts.

Even though a lawyer may be admitted to practice in another state, he or she must request permission to appear as a counsel of record in the Commonwealth if not licensed here. While Pennsylvania currently requires such a request to be filed, there have been no uniform statewide rules to govern an evaluation of the application or an admission fee.

“These rule amendments underscore the Judiciary’s desire to do as much as possible to encourage and foster administrative standardization in Pennsylvania’s Unified Judicial System,” Chief Justice of Pennsylvania Ralph J. Cappy said. “Implementing a statewide *pro hac vice* admission process is yet another important step in enhancing efficiency in our court system, and promoting a more equitable approach to addressing attorneys not licensed in Pennsylvania who wish to practice in the Commonwealth on a limited basis.”

The new rules were adopted with input from the IOLTA Board, Pennsylvania’s Board of Law Examiners, Pennsylvania Lawyers Fund for Client Security Board and the Civil Procedural Rules Committee. The rules are the latest in a series of administrative enhancements to emerge from the Supreme Court’s 17 advisory boards and committees that significantly enhance court operations statewide. Over the last year, the court has implemented new rules to streamline and standardize foreign adoption registrations; enhanced the administration of trusts and estates through new forms; boosted public trust and confidence in the courts under a new financial records review policy; and developed a Public Health Law Benchbook to prepare for a major threat, such as a pandemic.

IN THE SUPREME COURT OF PENNSYLVANIA

IN RE: : **No. 418**
AMENDMENT OF RULE 301 : **SUPREME COURT RULES**
OF THE PENNSYLVANIA : **DOCKET No. 1**
BAR ADMISSION RULES :

ORDER

PER CURIAM:

AND NOW, this 29th day of June, 2007, Rule 301 of the Pennsylvania Bar Admission Rules is amended to read as attached hereto.

To the extent that notice of proposed rulemaking would be required by Pennsylvania Rule of Judicial Administration No. 103 or otherwise, the immediate amendment of Pa. B.A.R. 301 is hereby found to be required in the interest of justice and efficient administration. This Order shall be processed in accordance with Pennsylvania Rule of Judicial Administration No. 103(b) and the amendment adopted hereby shall be effective September 4, 2007.

**NOTE: Underscored material is added.
 Bracketed material is deleted.**

SUBCHAPTER C.
RESTRICTED PRACTICE OF LAW
IN GENERAL

Rule 301. Admission Pro Hac Vice

(a) General Rule. The provisions of Subchapter B of these rules (relating to admission to the bar generally) do not apply to motions for admission pro hac vice. An attorney, barrister or advocate who is qualified to practice in the courts of another state or of [any] a foreign jurisdiction may be specially admitted to the bar of this Commonwealth for purposes limited to a particular matter. [He or she] An attorney, barrister or advocate admitted pro hac vice in a matter shall not [,however,] thereby be authorized to act as attorney of record in such matter.

(b) Procedure. The general requirements for applicants seeking admission pro hac vice are:

[In the case of such applicants, the oath shall not be required and there shall be no fee.]

(1) Applicants shall provide such information and pay such fee to the Pennsylvania Interest on Lawyer Trust Account (IOLTA) Board as is required by the regulations concerning pro hac vice admission that have been adopted by the IOLTA Board and approved by the Court.

(2)[Such] Pro hac vice admissions shall be only on motion of a member of the bar of this Commonwealth. Except as otherwise prescribed by general rule, [written notice of] such motion shall be signed by [such] the member of the bar, shall recite all relevant facts, including, if applicable, those averments required by regulations adopted by the IOLTA Board, and shall be filed with the clerk of the court in which or with the magisterial district [justice] judge before which the matter is pending at least three days prior to the [motion] appearance before the court or magisterial district judge by the attorney, barrister, or advocate seeking pro hac vice admission. Any court or magisterial district [justice] judge shall grant such a motion unless good cause for denial shall appear, which shall include failure to comply with applicable regulations promulgated by the IOLTA Board.

(3) The oath shall not be required.

**IN THE
SUPREME COURT OF PENNSYLVANIA**

IN RE: Promulgation of Rule 1012.1 Governing Motions for Admission Pro Hac Vice	:	No. 481
	:	Civil Procedural Rules
	:	Docket No. 5

ORDER

PER CURIAM:

AND NOW, this 29th day of June, 2007, Pennsylvania Rule of Civil Procedure 1012.1 is promulgated to read as attached hereto.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective September 4, 2007.

Rule 1012.1. Admission Pro Hac Vice. Motion. Content

(a) As used in this rule,

“candidate” means an attorney who is not admitted to the bar of the Commonwealth of Pennsylvania, but is admitted to the bar of and authorized to practice law in the highest court of another state or foreign jurisdiction and seeks admission *pro hac vice*;

Note: Pa.B.A.R. 301 states that the attorney seeking admission *pro hac vice* cannot act as the attorney of record.

“sponsor” means an attorney who is admitted to the bar of the Commonwealth of Pennsylvania and moves for the admission of a candidate *pro hac vice*.

(b) The sponsor shall file a written motion for admission *pro hac vice* in the action for which admission is sought. The verifications required by subdivisions (c) and (d)(2) shall be attached to the motion.

(c) A candidate shall submit a verified statement

(1) identifying the jurisdictions in which he or she is or has been licensed and the corresponding bar license numbers. With respect to each jurisdiction identified, the candidate shall state whether he or she

(i) is or has ever been suspended, disbarred, or otherwise disciplined. The candidate shall provide a description of the circumstances for each occurrence of suspension, disbarment or other disciplinary action,

(ii) is subject to any disciplinary proceedings. The candidate shall provide a description of the circumstances under which the disciplinary action has been brought,

(2) setting forth the number of pending actions in all courts of record in Pennsylvania in which the candidate has applied for admission *pro hac vice*, and the number of actions in which the motion has been denied. If any motion for admission *pro hac vice* has been denied, the candidate shall list the caption, court and docket number of the action, and describe the reasons for the denial of the motion.

(3) stating that he or she shall comply with and be bound by the applicable statutes, case law and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct,

(4) stating that he or she shall submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during the appearance in the matter for which admission *pro hac vice* is being sought,

(5) stating that he or she has consented to the appointment of the sponsor as the agent upon whom service of process shall be made for all actions, including disciplinary actions, that may arise out of the practice of law in the matter for which admission *pro hac vice* is sought.

(d)(1) The sponsor shall enter an appearance as attorney of record in the action on behalf of the party whom the candidate seeks to represent. Upon the motion being granted, the sponsor shall remain the attorney of record for that party, and shall sign and serve, or be served with as the case may be, all notices, orders, pleadings or other papers filed in the action, and shall attend all proceedings before the court unless excused by the court. Attendance of the sponsor at a deposition in discovery shall not be required unless ordered by the court.

(2) The sponsor shall submit a verified statement

(i) stating that after reasonable investigation, he or she reasonably believes the candidate to be a reputable and competent attorney and is in a position to recommend the candidate's admission,

(ii) setting forth the number of cases in all courts of record in this Commonwealth in which he or she is acting as the sponsor of a candidate for admission *pro hac vice*, and

(iii) stating that the proceeds from the settlement of a cause of action in which the candidate is granted admission *pro hac vice* shall be received, held, distributed and accounted for in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct, including the IOLTA provisions thereof, if applicable.

(e) The court shall grant the motion unless the court, in its discretion, finds good cause for denial.

Note: Good cause may include one or more of the following grounds:

(1) the admission may be detrimental to the prompt, fair and efficient administration of justice,

(2) the admission may be detrimental to legitimate interests of the parties to the proceedings other than the client whom the candidate proposes to represent,

(3) the client whom the candidate proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk,

(4) the candidate is not competent or ethically fit to practice law,

(5) the candidate is, in effect, practicing as a Pennsylvania attorney, in light of the nature and extent of the activities of the candidate in the Commonwealth, without complying with the Pennsylvania requirements for the admission to the bar. The court may weigh the number of other admissions to practice sought and/or obtained by the candidate from Pennsylvania courts, the question of whether or not the candidate maintains an office in Pennsylvania although the candidate is not admitted to practice in Pennsylvania courts, and other relevant factors,

(6) the number of cases in all courts of record in this Commonwealth in which the Pennsylvania attorney is acting as the sponsor prohibits the adequate supervision of the candidate,

(7) failure to comply with this rule, or

(8) any other reason the court, in its discretion, deems appropriate.

(f) The court may revoke an admission *pro hac vice sua sponte* or upon the motion of a party, if it determines, after a hearing or other meaningful opportunity to respond, the continued admission *pro hac vice* is inappropriate or inadvisable.

Explanatory Comment

New Rule 1012.1 governs admission of an attorney *pro hac vice*. The rule achieves a uniform statewide practice, provides information and guidance to the court in the evaluation of a motion for such an admission, and imposes obligations upon both the attorney seeking admission and the attorney sponsoring the admission.

Pennsylvania Bar Admission Rule 301 authorizes a court to grant admission *pro hac vice* to an applicant attorney provided that there is a Pennsylvania attorney who has agreed to act as the attorney of record. Procedurally, Rule 301 requires written notice of the motion to be signed by the attorney of record, to recite all relevant facts, and to be filed with the clerk of court or magisterial district judge office in which the matter is pending. New Rule 1012.1 supplements the Bar Admission rule by requiring the motion to provide the court with certain information regarding both the applicant attorney and the attorney of record.

Subdivision (a) of Rule 1012.1 designates the applicant attorney requesting admission *pro hac vice* as a “candidate” and the Pennsylvania attorney of record as a “sponsor.”

Subdivision (b) requires the sponsor to file the motion for admission *pro hac vice* in the action in which admission is sought. The motion must include verified statements from both the candidate and the sponsor.

Subdivision (c) of the rule governs the requirements of the candidate’s verification. One purpose of this verification is to gather relevant information regarding the candidate’s disciplinary history, if any, in all jurisdictions in which he or she is licensed to practice law, as well as the extent of his or her admissions *pro hac vice* in Pennsylvania. The rule eliminates the concern that there may be attorneys who are not

licensed in Pennsylvania, but routinely take on Pennsylvania cases by seeking admission *pro hac vice*.

A second purpose of the candidate's verification is to ensure that the court exercises the same supervision over an attorney admitted *pro hac vice* as over a Pennsylvania attorney. The verification must contain statements by the candidate with respect to (1) compliance with Pennsylvania law, (2) submission to the jurisdiction of Pennsylvania courts and the Pennsylvania Disciplinary Board, and (3) consent to the appointment of the sponsor as agent for service of process in actions arising out of the practice of law in the matter for which admission is sought.

Subdivision (d) of the rule governs the requirements for the sponsor's verification and imposes obligations upon him or her. Paragraph (2) requires the Pennsylvania attorney acting as sponsor through statements in the verification to assume the obligation to evaluate the candidate for reputation and competency before agreeing to sponsor him or her, and to supervise the candidate once admitted. A court may deny the motion on the basis that the Pennsylvania attorney is acting as sponsor in too many cases to adequately supervise the candidate.

Subdivision (d)(1) also requires the sponsor to enter an appearance as the attorney of record in the action on behalf of the party whom the candidate seeks to represent and to remain the attorney of record if the motion is granted. Further, the sponsor is obligated to sign and serve, or be served with, notices and papers filed in the actions and, unless excused, to attend proceedings before the court.

Subdivision (e) provides that the court must grant the motion for admission *pro hac vice* unless it finds good cause for denial. The note to subdivision (e) lists eight grounds for good cause.

Subdivision (f) provides for the revocation of admission *pro hac vice* either *sua sponte* by the court or upon motion of a party.

By the Civil Procedural
Rules Committee

R. Stanton Wettick, Jr.
Chair

IN THE SUPREME COURT OF PENNSYLVANIA

IN RE: Amendment of Rules : No. 61
: :
501, 502, 503, 504, 511, 512, : :
: : Disciplinary Rules Docket No. 1
513, 514, 521 and 531 of the : :
: :
Pennsylvania Rules of Disciplinary : :
: :
Enforcement : :

ORDER

PER CURIAM:

AND NOW, this 29th day of June, 2007, Rules 501, 502, 503, 504, 511, 512, 513, 514, 521 and 531 of the Pennsylvania Rules of Disciplinary Enforcement are amended to read as attached hereto.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration and shall be effective September 4, 2007.

Note: Material to be deleted is in brackets.
Material to be added is underlined.

**PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT
SUBCHAPTER E. PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY**

RULE 501. DEFINITIONS

The following words and phrases, when used in this subchapter shall have, unless the context clearly indicates otherwise, the meaning given to them in this section:

"Board." The Pennsylvania Lawyers Fund for Client Security Board.

"Covered [attorney] Attorney." An individual defined in Rule 512 (relating to covered attorney).

"Claimant." A person who makes application to the Board for a disbursement from the [fund] Fund.

"Dishonest [conduct] Conduct." Conduct defined in Rule 513 (relating to dishonest conduct).

"Fund." The Pennsylvania Lawyers Fund for Client Security.

"Reimbursable [losses] Losses." Losses defined in Rule 514 (relating to reimbursable losses).

RULE 502. PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY

- (a) General Rule. [There is hereby established in the Administrative Office of Pennsylvania Courts.] The Supreme Court shall establish a separate fund to be known as the "Pennsylvania Lawyers Fund for Client Security." The [fund] Fund shall consist of such amounts as shall be transferred to the [fund] Fund pursuant to this subchapter. The [fund] Fund is created by contributions of the members of the Bar to aid in ameliorating the losses caused to clients and others by defalcating members of the Bar acting as attorney or fiduciary. No [claimant] Claimant or other person shall have any legal interest in such [fund] Fund or right to receive any portion thereof, except for discretionary disbursements therefrom directed by the Board or the Supreme Court, all payments from the [fund] Fund being a matter of grace and not of right. There shall be no appeal from a decision of the Board. A decision of the Board to grant or deny payment to a Claimant shall not be subject to judicial review by any court. The Supreme Court reserves the right to amend or repeal this subchapter.
- (b) Additional Assessment. Every attorney who is required to pay an annual assessment under [Enforcement] Rule 219 (relating to periodic assessment of attorneys; voluntary inactive status) shall pay an additional annual fee of \$45.00 for [the] use [of] by the [fund] Fund. Such additional annual assessment shall be added to, and collected with and in the same manner as, the basic annual assessment, but the statement mailed by the Administrative

Office pursuant to [Enforcement] Rule 219 shall separately identify the additional assessment imposed pursuant to this subdivision. All amounts received pursuant to this subdivision shall be credited to the [fund] Fund.

- (c) Transfers to Fund. The Administrative Office shall transfer to the [fund] Fund all bequests and gifts hereafter made for [the] use [of] by the [fund] Fund. All monies or other assets of the Fund shall constitute a trust and shall be held in the name of the Fund, subject to the direction of the Board.
- (d) Audit. The Board shall annually obtain an independent audit of the [fund] Fund by a certified public accountant, and shall file a copy of such audit with the Supreme Court.

RULE 503. PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY BOARD

- (a) General Rule. The Supreme Court shall appoint a board to be known as the "Pennsylvania Lawyers Fund for Client Security Board" which shall consist of five members of the bar of this Commonwealth and two non-lawyer public members. One of the members shall be designated by the Court as Chair and another as Vice-Chair. A majority of the members of the Board shall designate a member of the Board to act as Treasurer.
- (b) Terms; Manner of Action. The regular terms of members of the Board shall be for three years, and no member shall serve for more than two consecutive three-year terms. The terms of one-third of the members of the Board, as nearly as may be, shall expire in each year. The terms of members shall commence on April 1. The Board shall act with the concurrence of not less than a majority of the members in office. A majority of the members in office shall constitute a quorum.
- (c) Vacancies. Vacancies shall be filled by appointment by the Supreme Court for any unexpired terms.

[c)] (d)Powers. The Board shall have the power and duty:

- (1) To appoint hearing committees. Each committee shall consist of three members who are members of the bar of the Supreme Court or who are current members of the Board[of the Pennsylvania Lawyers Fund for Client Security].
- (2) To investigate applications by [claimants] Claimants for disbursements from the [fund] Fund.
- (3) To authorize disbursements from the [fund] Fund and to fix the amount thereof.
- (4) To determine in January of each year, and to report to the Supreme Court, whether the [fund] Fund is of sufficient amount to pay adjudicated claims and other anticipated claims.

(5) To adopt rules of procedure not inconsistent with these rules. Such rules may provide for the delegation to the [Chairman] Chair or the Vice[-Chairman] Chair of the power to act for the Board on administrative and procedural matters.

(6) To exercise the powers and perform the duties vested in and imposed upon the Board by the Supreme Court.

(7) With prior approval of the Supreme Court to give financial assistance to Pennsylvania non-profit corporations whose purpose it is to assist alcohol or drug impaired Pennsylvania lawyers and judges to regain their health and to restore them to professional competence, or to such other Supreme Court Committees or Boards as the Court may direct.

(8) To prudently invest, per the direction of the Investment Advisory Board or the Court, such portions of the funds as may not be needed currently to pay losses, and to maintain sufficient reserves as appropriate.

(9) To prosecute claims for restitution to which the Fund is entitled.

[(d)] (e)[Assistance and] Compensation; Expenses. [The Administrative Office shall provide necessary clerical assistance to the Board and shall pay the cost thereof and the necessary travel and other expenses of members of the Board and hearing committees out of the fund.] Members of the Board shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the discharge of their duties.

(f) Conflict of Interest:

(1) A member of the Board who has or has had a client-attorney relationship or a financial relationship with a Claimant or a Covered Attorney shall not participate in the investigation or adjudication of a claim involving that Claimant or Covered Attorney;

(2) A member of the Board who has or has had a relationship, other than as provided in subparagraph (1) above, with a Claimant or Covered Attorney, or who has other potential conflicts of interest, shall disclose such relationship to the Board and, if the Board deems appropriate, that Board member shall not participate in the investigation or adjudication of a claim involving that Claimant or Covered Attorney;

(3) Claims based upon alleged Dishonest Conduct by members of the Board shall be submitted directly to the Supreme Court. Claims based upon alleged dishonest conduct by Counsel to the Board or Staff shall be submitted directly to the Board for disposition.

(g) Immunity. Members of the Board, members of hearing committees, Counsel to the Board and Staff shall be immune from civil suit for any conduct in the course of their official duties. All communications to the Board, a hearing committee, Counsel to the Board or Staff relating to Dishonest Conduct by a

Covered Attorney and all testimony given in a proceeding conducted pursuant to this subchapter shall be absolutely privileged and the person making the communication or giving the testimony shall be immune from civil suit based upon such communication or testimony, except that such immunity shall not extend to any action that violates Rule 402 or Rule 504 (relating to confidentiality).

Note: The provisions of subdivision (g) of the Rule recognize that the submission and receipt of applications by Claimants for disbursements from the Fund, and investigation, hearing, decision and disposition of such claims, are all parts of a judicial proceeding conducted pursuant to the inherent power of the Supreme Court of Pennsylvania. The immunity from civil suit recognized to exist in subsection (g) is that which exists for all participants in judicial proceedings under Pennsylvania law, so long as their statements and actions are pertinent, material and during the regular course of a proceeding. Communications made or revealed in violation of the confidentiality requirements of Rules 402 and 504 are not pertinent to the proceeding and, thus, do not entitle the person who publishes them to absolute immunity.

RULE 504. [IMMUNITY;] CONFIDENTIALITY

- (a) [Claims submitted to the Board shall be confidential. Members of the Board, members of hearing committees, General Counsel and staff shall be immune from civil suit for any conduct in the course of their official duties. All communications to the Board, a hearing committee, General Counsel or staff relating to dishonest conduct by a covered attorney and all testimony given in a proceeding conducted pursuant to this subchapter shall be absolutely privileged and the person making the communication or giving the testimony shall be immune from civil suit based upon such communication or testimony, except that such immunity shall not extend to any action that violates Rule 402 (relating to confidentiality).] All claims filed with the Fund shall be confidential and shall not be disclosed. This confidentiality requirement extends to all documents and things made and/or obtained, and all investigations and proceedings conducted and/or held by the Fund in connection with the filing of a claim.
- (b) [Claims based upon alleged dishonest conduct by members of the Board shall be submitted directly to the Supreme Court. Claims based upon alleged dishonest conduct by General Counsel or staff shall be submitted directly to the Board for disposition.] Notwithstanding subsection (a), the Fund, after an award is approved, may disclose the following information:
- (1) the name of the Claimant (if Claimant has granted permission to disclose);
 - (2) the name of the Covered Attorney;
 - (3) the amount claimed;

- (4) the amount awarded; and
 - (5) a summary of the claim.
- (c) Nothing in this Rule shall preclude the Fund from utilizing confidential information in the release of statistical data or in the pursuit of the Fund's subrogation rights.
- (d) This Rule shall not be construed to preclude disclosure, at any time during the investigation and/or proceeding, for confidential information requested by the following entities:
 - (1) authorized agencies investigating the qualifications of judicial candidates;
 - (2) the Judicial Conduct Board and/or its counterpart in other jurisdictions conducting an investigation;
 - (3) authorized agencies investigating qualifications for government employment;
 - (4) federal courts and/or other jurisdictions investigating qualifications for admission to practice law;
 - (5) Office of Disciplinary Counsel and/or the Disciplinary Board investigating misconduct by the Covered Attorney;
 - (6) lawyer discipline agencies and client protection funds in other jurisdictions conducting an investigation; or
 - (7) law enforcement authorities investigating and/or prosecuting the Covered Attorney for a criminal offense.
- (e) Requests for the release of confidential information by any person or entity, other than those identified in subsection (d), must be made to the Fund through the issuance of a subpoena; requests for same made under the Freedom of Information Act will not be honored.

[Note: The provisions of subdivision (a) of the rule recognize that the submission and receipt of applications by claimants for disbursements from the fund and the investigation, hearing, decision and disposition of such claims, are all parts of a judicial proceeding conducted pursuant to the inherent power of the Supreme Court of Pennsylvania. The immunity from civil suit recognized to exist in subsection (a) is that which exists for all participants in judicial proceedings under Pennsylvania law, so long as their statements and actions are pertinent, material and during the regular course of a proceeding. Communications made or revealed in violation of the confidentiality requirement of Rule 402 are not pertinent to the proceeding and, thus, do not entitle the person who publishes them to absolute immunity.]

RULE 511. REIMBURSEMENT OF CERTAIN LOSSES AUTHORIZED

The Board in its discretion may authorize a disbursement from the [fund] Fund in an amount not exceeding the [reimbursable] Reimbursable [loss] Loss caused by the [dishonest] Dishonest [conduct] Conduct of a [covered] Covered [attorney] Attorney.

RULE 512. COVERED ATTORNEY

This subchapter covers conduct of [an] a [active] member of the bar of the Supreme Court, including attorneys admitted pro hac vice and formerly admitted attorneys whose clients reasonably believed the former attorney to be licensed to practice when the Dishonest Conduct occurred, an active foreign legal consultant, an active military attorney, or a person holding an active Limited In-House Corporate Counsel License, which conduct forms the basis of the application to the Board. The conduct complained of need not have taken place in this Commonwealth for application to the Board to be considered by the Board and an award granted, except that an award shall not be granted with respect to conduct outside of this Commonwealth of a foreign legal consultant, military attorney or person holding a Limited In-House Corporate Counsel License unless the conduct related to the provision of legal services to a resident of this Commonwealth.

RULE 513. DISHONEST CONDUCT

For the purposes of this subchapter, dishonest conduct [consists of wrongful acts or omissions committed by a covered attorney in the manner of defalcation or embezzlement of money, or the wrongful taking or conversion of money, property or other things of value.] means wrongful acts committed by a Covered Attorney in the nature of theft or embezzlement of money or the wrongful taking or conversion of money or property or other things of value.

RULE 514. REIMBURSABLE LOSSES

- (a) General Rule. For the purposes of this subchapter reimbursable losses consist of those losses of money, property or other things of value which meet all of the following requirements:

(1) The loss was caused by the [dishonest] Dishonest [conduct] Conduct of a [covered] Covered [attorney] Attorney when acting:

(i) as an attorney-at-law;

(ii) in a fiduciary capacity customary to the practice of law, such as administrator, executor, trustee of an express trust, guardian or conservator; or

(iii) as an escrow agent or other fiduciary, having been designated as such by a client in the matter in which the loss arose or having been so selected as a result of a client-attorney relationship.

(2) The loss was that of money, property or other things of value which came into the hands of the [covered] Covered [attorney] Attorney by reason of having acted in the capacity described in paragraph (1) of this subdivision. Consequential or incidental damages, such as lost interest, or attorney fees or other costs incurred in seeking recovery of a loss, may not be considered in determining the Reimbursable Loss.

(3) The loss, or the reimbursable portion thereof, was not covered by any insurance or by any fidelity or similar bond or fund, whether of the [covered] Covered [lawyer] Attorney, or the [claimant] Claimant or otherwise.

(4) The loss was not incurred by:

- (i) the spouse or other close relative, partner, associate, employer or employee of the [covered] Covered [attorney] Attorney, or a business entity controlled by the [covered] Covered [attorney] Attorney, or any entity controlled by any of the foregoing;
- (ii) an insurer, surety or bonding agency or company, or any entity controlled by any of the foregoing; [or]
- (iii) any government unit[.];
- (iv) any financial institution that may recover under a “banker’s blanket bond” or similar commonly available insurance or surety contract; or
- (v) an individual or business entity suffering a loss arising from personal or business investments not arising in the course of the client-attorney relationship.

(5) In cases of extreme hardship or special and unusual circumstances, the Board may, in its discretion, and consistent with the purpose of the Fund, recognize a claim which would otherwise be excluded under this subchapter.

(6) In cases where it appears that there will be unjust enrichment, or the Claimant unreasonably or knowingly contributed to the loss, the Board may, in its discretion, deny the claim.

(7) A payment from the [fund] Fund, by way of subrogation or otherwise, will not benefit any entity specified in paragraph (4) of this subdivision.

(b) Maximum Recovery. The maximum amount which may be disbursed from the [fund] Fund to any one [claimant] Claimant with respect to the [dishonest] Dishonest [conduct] Conduct of any one [covered] Covered [attorney] Attorney shall be \$75,000.

- (c) No lawyer shall accept payment for assisting a Claimant with the filing of a claim with the Fund, unless such payment has been approved by the Board.

RULE 521. INVESTIGATION AND PAYMENT OF CLAIMS

- (a) Cooperation With Disciplinary Board. At the request of the Board, the Disciplinary Board of the Supreme Court of Pennsylvania shall make available to the Board all reports of investigations and records of formal proceedings conducted under these rules with respect to any attorney whose conduct is alleged to amount to [dishonest] Dishonest [conduct] Conduct causing [reimbursable] Reimbursable [loss] Loss to a [claimant] Claimant, and shall otherwise cooperate fully with the Board. The Board shall cooperate fully with the Disciplinary Board of the Supreme Court of Pennsylvania and shall preserve the confidential nature of any information which is required to be kept confidential under these rules.
- (b) Hearing Committees. The Board may utilize a hearing committee to conduct any hearings under this subchapter for the purpose of resolving factual issues. Imposition of discipline under Rule 204 (relating to types of discipline) or otherwise shall not be a prerequisite for favorable action by the Board with respect to a claim against the [fund] Fund, but the [covered] Covered [attorney] Attorney involved shall be given notice of and an opportunity to contest any claim made with respect to his or her alleged [dishonest] Dishonest [conduct] Conduct.
- (c) Subpoenas. At any stage of an investigation under this subchapter the Board, a [claimant] Claimant and a contesting [covered] Covered [attorney] Attorney shall have the right to summon witnesses before a hearing committee and require production of records before the same by issuance of subpoenas in substantially the same manner, and with the effect provided by Rule 213(b), (e), (f), (g) and (h), and if applicable, (c) and (d) (relating to subpoena power, depositions and related matters).
- (d) Factors to Be Considered. In exercising its discretion under Rule 511 (relating to reimbursement of certain losses authorized) the Board may consider, among other things:
- (1) The amount available and likely to become available to the [fund] Fund for payment to [claimants] Claimants.
 - (2) The size and number of claims which are likely to be presented in the foreseeable future.
 - (3) The total amount of losses caused by [dishonest] Dishonest [conduct] Conduct by any one [covered] Covered [attorney] Attorney or associated group of [covered] Covered [attorneys] Attorneys.
 - (4) The degree of hardship the [claimant] Claimant has suffered by the loss.

(e) The Claimant or Covered Attorney may request a reconsideration of the denial or approval of an award. Such request for a reconsideration shall be made in writing and shall be received by the Fund within 30 days of the date of the notification of the Board's denial or approval of an award. If the Claimant or Covered Attorney fails to make such a request, or the request is denied, the decision of the Board is final and there is no further right of appeal.

[(e)](f) Conditions. In addition to such other conditions and requirements as it may impose, the Board shall:

(1) require each [claimant] Claimant, as a condition of payment, to execute such instruments, to take such action, and to enter into any agreements, including assignments of claims and subrogation agreements, as may be feasible in order to maximize the possibility that the [fund] Fund will be appropriately reimbursed for payments made from it. Amounts recovered pursuant to any such arrangements shall be paid to the [Administrative Office for reimbursement of the fund] Fund; [and]

(2) require each [claimant] Claimant, as a condition of payment, to file a formal complaint with the Disciplinary Board of the Supreme Court of Pennsylvania against the [covered] Covered [attorney] Attorney and to cooperate in the fullest with the Disciplinary Board or other authorities in connection with other investigations of the alleged [dishonest] Dishonest [conduct] Conduct.; and

(3) require a Claimant who has commenced an action to recover unreimbursed losses against the Covered Attorney, or another entity or third party who may be liable for the Claimant's loss, to notify the Board of such action.

RULE 531. RESTITUTION A CONDITION FOR REINSTATEMENT

The Board shall file with the Supreme Court a list containing the names of all formerly admitted attorneys with respect to the [dishonest] Dishonest [conduct] Conduct of which the [board] Board has made unrecovered disbursements from the [fund] Fund. No person will be reinstated by the Supreme Court under Rule 218 (relating to reinstatement), Rule 219(h) (relating to periodic assessment of attorneys; voluntary inactive status), Rule 301(h) (relating to proceedings where an attorney is declared to be incompetent or is alleged to be incapacitated), [or] Pennsylvania Rules for Continuing Legal Education, Rule 111(b) (relating to noncompliance with continuing legal education rules) or who has been suspended from the practice of law for any period of time, including, but not limited to suspensions under Rule 208(f) (relating to emergency temporary suspension) until the [fund] Fund has been repaid in full, plus 10% per annum interest, for all disbursements made from the [fund] Fund with respect to the [dishonest] Dishonest [conduct] Conduct of such person.

APPENDIX “A”

PENNSYLVANIA IOLTA BOARD

Form for *PRO HAC VICE* ADMISSION

Use this form if you are an attorney who is qualified to practice in another state or in a foreign jurisdiction, is not admitted to practice law in Pennsylvania, and is seeking to be specially admitted to the Bar of the Commonwealth of Pennsylvania in order to appear before a Pennsylvania court in connection with a particular case.

Filing this form and paying the fee is the mandatory first step in your request for permission to participate in proceedings in a Pennsylvania court. The next step is to file a motion in the Pennsylvania court before which you are seeking to appear. The motion must aver payment of the fee or be accompanied by the acknowledgment letter you will receive from the Board. The decision to grant or deny your admission is ultimately made by the court before which you are seeking to appear. Applicable regulations define a case as: a particular legal action, including appellate review of that action, maintained in a Pennsylvania Court of Common Pleas, the Pennsylvania Superior Court, the Pennsylvania Commonwealth Court, or the Supreme Court of Pennsylvania. The term “case” does not refer to an action maintained only in a special court. Each case is subject to the completion of a new form and fee.

Appearance before a Pennsylvania court by a foreign attorney is deemed to commence with the attorney’s first appearance in a Pennsylvania court with respect to a particular case, and shall continue until final determination of that case, including appellate review, or until issuance of an order permitting the foreign attorney to withdraw.

It is not necessary to file this form or pay the fee in order to appear before a special court, as defined in applicable regulations.

Carefully follow these instructions and complete this form. Keep a copy of your completed form for future reference, as you may be charged for any copies you request from the Board’s file.

No alterations may be made to the text or wording of this form. Before you file your form, verify that you have fully responded to all items and questions, leaving no blanks. If the item or question is inapplicable, write “N/A.”

Your form will not be considered filed if incomplete. If incomplete, it may be returned to you. Failure to provide any of the following information will result in an incomplete form:

- a) failure to provide any information required, including names, complete addresses, telephone numbers, or zip/postal codes;
 - b) failure to answer any question;
 - c) failure to send in the required fee;
 - d) alteration of any language of the form; and
 - e) failure to sign any document requiring your signature.
1. **Admission fees:** Make your check, money order, or bank cashier’s check payable in the full amount due to the PA IOLTA Board. **The admission fee is One Hundred Dollars (\$100).** If you have any questions about the fee, please contact the PA IOLTA Board before submitting this form. Do not

postdate your check. A form is not considered filed until all fees are received in the Board's office. If your check for fees is returned for insufficient funds or is otherwise dishonored by your bank, you will be assessed a returned check charge. All fees due after that time must be paid by bank cashier's check or money order. **There is no refund of fees if you withdraw your application for pro hac vice admission or do not meet all requirements for admission. No fee is required if the applicant attorney is representing a person who has been granted in forma pauperis status.**

2. **Filing of Application:** Mail or deliver your form and required fees to the Board as follows:

Mailing Address:
PA IOLTA Board
P.O. Box 1025
Harrisburg, PA 17108-1025

Delivery Address:
PA IOLTA Board
115 State Street
Harrisburg, PA 17101

Phone: (717) 238-2001 or 888-PA-IOLTA (724-6582)

Web address: www.paiolta.org

E-mail Address: paiolta@pacourts.us

The Board will acknowledge receipt of your form and fee payment within three (3) working days of its receipt. The acknowledgment letter will serve as your proof of payment of the requisite fee and can be included with your written motion to the Court in Pennsylvania in which you are requesting permission to participate. If you do not receive such an acknowledgment by that time, please contact the Board's office.

3. **Case Number:** List only one (1) case number per form, as this crucial information will be included on the acknowledgment letter.
4. **Pennsylvania Court of Record:** List the Court in which the Motion for Admission Pro Hac Vice will be filed.
5. **Certificate of Good Standing:** Formal Certificates of Good Standing are not necessary.
6. **Forms from the Board web page:** If you are using an electronic version of this form, it is your responsibility to insure that it is printed with the same content and wording as the Board's printed version of this form.
7. **Regulations:** The Applicant should review Rule 301 of the Pennsylvania Bar Admission Rules as well as the regulations of the Pennsylvania Interest on Lawyers Trust Account Board for Pro Hac Vice Admission for further guidance.

PENNSYLVANIA IOLTA BOARD

Form for *PRO HAC VICE* ADMISSION

(For all nonresident attorneys requesting permission to participate in proceedings in a Pennsylvania Court)

Applicant [] Mr.

Name: [] Ms.

_____ Last

_____ First

_____ Middle

Date of Birth: _____

Your Firm's Name & Mailing Address: (All correspondence will be mailed to this address.)

_____ Firm Name

_____ Street Address/P.O. Box

_____ Ste. No.

_____ City

_____ State

_____ Zip Code

Your Firm's Physical Address: _____ Check here if same as above

_____ Street Address

_____ Ste. No.

_____ City

_____ State

_____ Zip Code

_____ Office Phone

_____ Office Fax

_____ Contact E-Mail Address

Acknowledgment Letter **should be faxed to:** _____

_____ Contact Name

_____ Contact Fax

Name & Office Address of Attorney of Record in the Pennsylvania Proceeding who is filing the Motion for your admission Pro Hac Vice:

_____ Name

_____ Firm Name (if applicable)

_____ Street Address/P.O. Box

_____ Ste. No.

_____ City

_____ State

_____ Zip Code

_____ Office Phone

_____ Office Fax

_____ PA I.D. Number

Case Number: _____

Case Name: _____

Pennsylvania Court of Record: _____

Address of Court: _____

- List all foreign, state and federal jurisdictions in which you have been qualified, licensed or admitted to practice law and are currently active and in good standing, the year of licensure, and your license or bar card numbers, if applicable. Use the *Continuation Form* if additional space is needed.

Jurisdiction(s)

Year(s) of Licensure(s)

License Number(s)

- If you have ever practiced law under another name, please state that name here. List also all jurisdictions in which you practiced law under that name, license number, and the time period involved. Use the *Continuation Form* if additional space is needed.

Other Name(s)

Jurisdiction(s)

License Number(s)

Time Period(s)

- Are you familiar with the Pennsylvania Rules of Professional Conduct, Pennsylvania Rules of Disciplinary Enforcement, and the rules and court procedures of the court before which you seek to appear, and will you at all times abide by and comply with the same so long as such Pennsylvania proceeding is pending and you have not withdrawn as counsel therein?

Yes

No

I certify that the information provided on this form is true. If any statements are false, I realize I am subject to discipline by the Supreme Court of Pennsylvania. I hereby certify that I am enclosing the fee required by Rule 301 of the Pennsylvania Bar Admission Rules. I hereby agree that any action brought against me by the Supreme Court of Pennsylvania or any of its boards or instrumentalities may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County, Pennsylvania.

Signature of *Pro Hac Vice* Applicant

Date of Application

Pennsylvania Interest on Lawyer Trust Account Board Regulations for Pro Hac Vice Admission

These Regulations are to be read and applied in connection with the Pennsylvania Bar Admission Rules. Nothing in these regulations shall be construed to relieve a lawyer from complying with any other rules applicable to the practice of law in Pennsylvania, including but not limited to the Pennsylvania Bar Admission Rules and the Pennsylvania Rules of Professional Conduct. Where these regulations contain directives pertaining to pro hac vice admission before a court in the Commonwealth of Pennsylvania which are more specific than those set forth in the Pennsylvania Bar Admission Rules, the provisions of these regulations shall control.

Section 81.501: Definitions

- (a) **Admission pro hac vice.** Special admission to the bar of this Commonwealth for purposes limited to a particular case before a court in this Commonwealth.
- (b) **Applicant.** The attorney seeking admission pro hac vice.
- (c) **Attorney.** A member in good standing of the bar of the highest court of any state in the United States or admitted to practice law before any court in a foreign jurisdiction.
- (d) **Case.** A particular legal action, including appellate review of that action, maintained in a Pennsylvania court which is not a special court. The term “case” does not refer to an action maintained only in a special court.
- (e) **Court.** Any Pennsylvania court of common pleas, the Pennsylvania Superior Court, the Pennsylvania Commonwealth Court, the Supreme Court of Pennsylvania, and any other Pennsylvania court established after the effective date of these regulations which is not a special court.
- (f) **IOLTA Board.** The Pennsylvania Interest on Lawyer Trust Account Board.
- (g) **Special court.** Any Pennsylvania magisterial district court, the Philadelphia Municipal Court, the Philadelphia Traffic Court, the Pittsburgh Municipal Court, and any other special court of similar jurisdiction.

Section 81.502: Scope

- (a) An attorney, barrister or advocate who is qualified to practice in the courts of another state or of a foreign jurisdiction may be specially admitted to the bar of this Commonwealth for purposes limited to a particular case.
- (b) An attorney admitted pro hac vice shall not be authorized to act as attorney of record for any case in this Commonwealth. The attorney should refer to the Pennsylvania Bar Admission Rules.
- (c) Appearance before a Pennsylvania court by a foreign attorney is deemed to commence with the attorney's first appearance in a Pennsylvania court with respect to a particular case, and shall continue until final determination of that case, including appellate review, or until issuance of an order permitting the foreign attorney to withdraw.

Section 81.503: Requirements and Procedure for Admission Pro Hac Vice

- (a) No oath shall be required of an attorney seeking admission pro hac vice.
- (b) Pro hac vice admission shall be only on motion of a member of the bar of the Commonwealth of Pennsylvania, and, unless waived or otherwise not required, by payment of the fee required by Section 81.505.
- (c) These regulations apply to admission pro hac vice before a Pennsylvania court, as defined in these regulations.
- (d) Except as otherwise prescribed by general rule, admission pro hac vice shall be by written motion of a member of the bar of the Commonwealth of Pennsylvania, and shall be signed by that member. The motion shall recite all relevant facts and shall be filed with the clerk of the court before which the case is pending at least three days prior to any appearance by the attorney seeking pro hac vice admission.
- (e) Each motion for pro hac vice admission shall aver that the fee required by Section 81.505(a) has been paid, or include as an attachment a copy of a fee payment certification from the IOLTA Board, unless payment of the fee is not required pursuant to Section 81.505(c).
- (f) Each motion for pro hac vice admission shall aver that the information

required by Section 81.504 has been provided to the IOLTA Board.

Section 81.504 Information to be provided to IOLTA Board

- (a) The following information shall be provided to the IOLTA Board with the fee required by Section 81.505:
 - (i) The name, address, contact information, and Supreme Court identification number of the active member of the bar of this Commonwealth who sponsors the applicant for pro hac vice admission.
 - (ii) The applicant's complete name, date of birth, law firm address and other contact information.
 - (iii) The name and address of each court and a full identification of the case.
 - (iv) The courts before which the applicant has been admitted to practice, the respective period(s) of admission, and the applicant's identification number in the jurisdiction(s) admitted.
 - (v) An averment that the applicant is familiar with the Pennsylvania Rules of Professional Conduct, the Pennsylvania Rules of Disciplinary Enforcement, and the rules and court procedures of the court before which the applicant seeks pro hac vice admission.
- (b) Included as Appendix A to this regulation is a form which may be used to provide the information required by Section 81.504(a).

Section 81.505 Fees

- (a) An attorney seeking admission pro hac vice with respect to a case shall pay a fee of One Hundred Dollars (\$100). The fee shall be required for each case in which the attorney is seeking pro hac vice admission. Under no circumstances shall the fee required by this regulation be refunded.
- (b) An attorney seeking admission pro hac vice shall pay the fee required by this regulation to the IOLTA Board no later than the time of filing a motion requesting permission to participate in a case proceeding in a court in this Commonwealth.
- (c) No fee for admission pro hac vice shall be required if the client being

represented has been granted *in forma pauperis* status, or for actions before a special court.

- (d) Fees required by this regulation shall be paid by a check drawn on a United States bank, money order, or bank cashier's check payable in the full amount to the IOLTA Board.
- (e) Fees collected under this regulation shall be used by the IOLTA Board to fund the expenses needed to administer this regulation, and to supplement the funding of non-profit organizations that provide civil legal services to the indigent and disadvantaged, or for similar purposes as authorized by the Supreme Court of Pennsylvania.

Section 81.506: Records Custodian

The Pennsylvania IOLTA Board is considered the custodian of records for pro hac vice admission and does not approve or disapprove pro hac vice admission. Approval or disapproval shall be determined by the court before which the attorney wishes to appear.