

LOCAL BANKRUPTCY RULE 2090-1

ATTORNEYS

(1) APPEARANCE BEFORE THE COURT

- (a) By Attorney. Except as set forth in this rule, appearance before the Court on behalf of a person or entity may be made only by an attorney admitted to the bar of, or permitted to practice before, the District Court. Attorneys appearing before the Court are required to have read the F.R.B.P. and the Local Bankruptcy Rules in their entirety.
- (b) Scope of Appearance. An attorney may appear before the Court in a case:
- (i) Only for such matters as concern the administration of the case;
 - (ii) Only for one or more proceedings in the case; or
 - (iii) For the case and all proceedings in the case.

In chapter 9, 11, 12 and 13 cases, the attorney for the debtor is presumed to appear for the case and all proceedings in the case, unless otherwise ordered by the Court.

- (c) Disclosure of Scope of Appearance in Chapter 7 Cases. In a chapter 7 case, the attorney for the debtor shall file a statement disclosing the scope of the attorney's appearance on the date of the entry of the Order for Relief, or, if the attorney has not been employed by such date, then no later than the date of the first appearance made by the attorney.
- (d) Form of Statement. The statement required by Local Bankruptcy Rule 2090-1(1)(c) shall be on a form approved by the Court and shall be signed by the debtor.

(2) PRO HAC VICE APPEARANCE

- (a) Permission For Pro Hac Vice Appearance. Any person who is not otherwise eligible for admission to practice before the Court, but who is a member in good standing of, and eligible to practice before, the bar of any United States Court, or of the highest court of any State, Territory, or Insular Possession of the United States, who is of good moral character, and who has been retained to appear before the Court, may, upon written application and at the discretion

of the Court, be permitted to appear and participate pro hac vice in a particular case or in a particular proceeding in a case.

(b) Disqualification From Pro Hac Vice Appearance.

Unless authorized by the Constitution of the United States or Act of Congress, an applicant is not eligible for permission to practice pro hac vice if the applicant:

- (i) Resides in California; or
- (ii) Is regularly employed in California; or
- (iii) Is regularly engaged in business, professional, or other similar activities in California.

(c) Designation of Local Counsel.

A person applying to appear pro hac vice is required to designate an attorney who is a member of the Bar of the Court and who maintains an office within this District as local counsel with whom the Court and opposing counsel may readily communicate regarding the conduct of the case and upon whom papers may be served, unless otherwise ordered by the Court.

(d) Designation of Co-Counsel.

A Judge to whom a case is assigned may, in the exercise of discretion, require the designation of an attorney who is a member of the Bar of the Court and who maintains an office within this District as co-counsel with authority to act as attorney of record for all purposes.

(e) Obtaining Permission for Pro Hac Vice Appearance.

Each applicant for permission to appear pro hac vice shall present to the Clerk a written application on or conforming to Court-approved form F 2090-1.2 (Application of Non-Resident Attorney to Appear in a Specific Case) and containing the following:

- (i) The applicant's name, residence and office address.
- (ii) The courts to which the applicant has been admitted to practice and the respective dates of admission.
- (iii) A statement by the applicant of the good standing to practice before the courts to which the movant has been admitted.

- (iv) Whether the applicant has been disciplined by any court or administrative body, and if disciplinary proceedings are pending, the details of such proceeding, and whether the applicant resigned while disciplinary proceedings were pending.
- (v) Whether in the three years preceding the application, the applicant has filed for permission to practice pro hac vice before any court within the State of California, together with the court, title and number of each such proceeding and the disposition of each such application.
- (vi) A certificate that the applicant has read the Local Bankruptcy Rules, the F.R.B.P., the F.R.Civ.P., and the F.R.Evid., in their entirety.
- (vii) The designation required by Local Bankruptcy Rule 2090-1(2)(c) or 2090-1(2)(d) including the office address, telephone number and written consent of the designee.

No notice or hearing is required on such applications.

(3) ATTORNEYS FOR THE UNITED STATES

Any person who is not eligible for admission under Local Bankruptcy Rule 2090-1(2), or Local Rules 2.2.1 or 2.2.3 of the District Court, who is employed within the state and who is a member in good standing of and eligible to practice before the bar of any United States Court, or of the highest court of any State, Territory or Insular Possession of the United States, and who is of good moral character, may be granted leave of court to practice in the Court in any matter for which such person is employed or retained by the United States or its agencies.

(4) PROFESSIONAL CORPORATIONS AND UNINCORPORATED LAW FIRMS; IN-HOUSE ATTORNEYS

- (a) Appearance. Other than pro se appearances on behalf of the attorney or his or her professional corporation or law firm, no appearance may be made on behalf of another party by and no pleadings or other documents may be signed in the name of any professional law corporation or unincorporated law firm (both hereinafter referred to as "law firm") except by an attorney admitted to the Bar of or permitted to practice before the Court.
- (b) Form of Appearance.
 - (i) A law firm shall appear in the following form of designation or its equivalent:

John Smith (State Bar Number)
Smith and Jones
Address
Telephone Number
Facsimile Number (if any)
Attorneys for Plaintiff

- (ii) An in-house attorney shall appear in the following form of designation or its equivalent:

John Smith (State Bar Number)
Name of corporation or business entity
Address
Telephone Number
Facsimile Number (if any)
Attorneys for _____

(5) JURISDICTION OF COURT TO ENFORCE STANDARDS OF PROFESSIONAL CONDUCT

Any attorney who appears for any purpose submits to the discipline of the Court with respect to conduct of the case or proceeding and shall be subject to the standards of professional conduct as set forth in ~~Local Rule 2.5 of the District Court~~. **Local Rule 1.2 of Chapter VII of the District Court Local Rules. A process of attorney discipline in the Bankruptcy Court is set forth in General Order 96-05 as Appendix III.**

(6) WITHDRAWAL AND SUBSTITUTION OF ATTORNEYS

- (a) In General. Except as otherwise provided in Local Bankruptcy Rules 2090-1(6)(b) and 2083-1 governing chapter 13 cases, whenever an attorney has appeared on behalf of an entity in any matter concerning the administration of the case, in one or more proceedings, or both: (i) the attorney may not withdraw; and (ii) the entity may not thereafter appear without counsel or by a different attorney prior to approval by the Court of a motion considered after notice and a hearing.
- (b) Consensual Substitutions of Counsel. If the entity on whose behalf an attorney has appeared in any matter concerning the administration of the case, in one or more proceedings, or both, desires to substitute a different attorney in place of its former attorney, or a previously unrepresented entity desires to employ an attorney, no order shall be required, except under subsection (e) of this rule. Notice of Substitution of Attorney shall be filed and served on those persons entitled to notice as specified in Local Bankruptcy Rule 2090-1(6)(c). Substitution of counsel shall not result in a continuance of any matter, except

upon a noticed motion for continuance pursuant to Local Bankruptcy Rule 9013-1(6).

(c) Extent of Notice.

- (i) Case. If the attorney to be substituted out or the attorney seeking to withdraw has appeared on behalf of an entity in any matter concerning the administration of the case, notice of the proposed substitution or the motion for leave to withdraw shall be given to the debtor, the United States Trustee, any trustee, any committee which may have been appointed pursuant to the Bankruptcy Code, and any entity who has requested special notice.
- (ii) Proceedings. If the attorney to be substituted out or the attorney seeking to withdraw has appeared on behalf of an entity only in one or more proceedings, notice of the proposed substitution or the motion for leave to withdraw shall be given to the debtor, parties who have been named or who have appeared in such proceeding(s), and the United States Trustee.
- (iii) Cases And Proceedings. If the attorney to be substituted out or the attorney seeking to withdraw has appeared on behalf of an entity both in the case and one or more proceedings, notice of the proposed substitution or the motion for leave to withdraw shall be given to all entities entitled to notice under both (6)(c)(i) and (ii) of this Local Bankruptcy Rule.

(d) Required Disclosures.

- (i) Consequences Of Withdrawal. An attorney moving for leave to withdraw from representation of a corporation, partnership or other unincorporated association, concurrently or prior to filing any such motion, shall give notice to the corporation or unincorporated association of the consequences of its inability to appear without counsel including the possibility that a default judgment may be entered against it in pending proceedings; or, if the client is a debtor, its chapter 11 case may be converted to chapter 7, a chapter 11 trustee may be appointed, or its case may be dismissed.
- (ii) Delays. Unless good cause is shown and the ends of justice require, no substitution or withdrawal will be allowed that will cause unreasonable delay in prosecution of the case or proceeding to completion.

- (e) Required Approval For Employment. If approval is requested for employment pursuant to 11 U.S.C. § 327 or § 1103, a new attorney shall also comply with F.R.B.P. 2014 and the United States Trustee Notices and Guides, and may not be appointed merely by a Notice of Substitution of Attorney and Order thereon.

(7) PERSONS APPEARING WITHOUT COUNSEL

- (a) Corporation, Partnership or Unincorporated Association. A corporation, partnership or unincorporated association may not file a petition or otherwise appear without counsel in any case or proceeding, except that it may file a proof of claim, file or appear in support of an application for professional compensation, or file a reaffirmation agreement, if signed by an authorized officer or agent of the corporation, or an authorized member or agent of the unincorporated association.
- (b) Individuals. Any person representing himself or herself without an attorney shall appear personally for such purpose. The representation may not be delegated to any other person, including a spouse, parent or other relative, nor to any other party. A non-attorney guardian for a minor or an incompetent person shall be represented by counsel.
- (c) Compliance with Rules. Any person appearing without counsel shall comply with the Local Bankruptcy Rules, the F.R.Civ.P., F.R.Evid., F.R.App.P. and F.R.B.P. Failure to comply may be grounds for dismissal, conversion, appointment of a trustee or an examiner, judgment by default, or other appropriate sanctions.

(8) LAW STUDENT CERTIFICATION FOR PRACTICE IN BANKRUPTCY COURTS

Law students may be certified for practice in the Bankruptcy Court if they meet the requirements of the Student Practice Rule of the District Court except that:

- (a) They do not have to have completed courses in Criminal Law and Criminal Procedure.
- (b) They only have to have completed one-third (rather than one-half) of the legal studies required for graduation.
- (c) They shall have taken or be taking concurrently appropriate courses in bankruptcy law.

An eligible law student shall also have knowledge of and be familiar with the F.R.Civ.P., F.R.B.P., F.R.Evid., the Rules of Professional Conduct of the State Bar of California, and the Local Bankruptcy Rules.

(9) MINORS OR INCOMPETENTS

District Court Local Rule 20 is incorporated by reference.

Court's Comment

Rule 102:

Paragraph (1)(a) By Attorney. *Below* was changed to *in this rule* in the first sentence.

Paragraph (1)(d) Form of Statement. *Such* was changed to *a* and *as is* was struck following *form*.

Paragraph (2)(a) Permission For Pro Hac Vice. Title amended to add *For* between *Permission* and *Pro Hac Vice*; *motion* changed to *application* in first sentence; second paragraph pertaining to permission to appear pro hac vice in the District Court deleted as no longer applicable pursuant to the U.S. D.C.'s General Order No. 96-6.

Paragraph (2)(b) Disqualification From Pro Hac Vice Appearance. *A movant* changed to *an applicant*, and *the movant* changed to *the applicant*.

Paragraph (2)(c) Designation of Local Counsel. *The* was replaced with *A* to start the paragraph; *moving* changed to *applying*.

Paragraph (2)(e) Obtaining Permission for Pro Hac Vice Appearance. *Movant* changed to *applicant*, and *motion* changed to *application on or conforming to Court-approved form F 2090-1.2 (Application of Non-Resident Attorney to Appear in a Specific Case)* and, in first sentence. *Movant* changed to *applicant* in subparagraphs (i) through (vi). *Motions* changed to *applications* in last sentence.

Paragraph (4). *IN-HOUSE ATTORNEYS* added to paragraph title.

Paragraph (4)(b) Form of Appearance. In subsection (i), state bar number, address, telephone, and facsimile number added to the requirements for appearance by a law firm. New subsection (ii) added.

Paragraph (6)(a) In General. *Pro se* changed to *without counsel*.

Paragraph (6)(b) Consensual Substitutions of Counsel. *Except under subsection (e) of this rule* was appended to the end of the first sentence.

Paragraph (6)(e) Required Approval for Employment. *In all situations where the attorney who is withdrawing or being substituted out was required to be approved for* was replaced with *If approval is requested for*. *U.S. Trustee Guidelines* was replaced with *United States Trustee Notices and Guides*.

Paragraph (7) PERSONS APPEARING WITHOUT AN ATTORNEY, PRO SE LITIGANTS. The title changed to *PERSONS APPEARING WITHOUT COUNSEL*.

Paragraph (7)(a) Corporation, Partnership or Unincorporated Association. *Pro se* changed to *without counsel*.

Paragraph (7)(b) Individuals. *Must* changed to *shall* in first sentence; *other* inserted before *relative* in second sentence; *A non-attorney guardian for a minor or an incompetent person must be represented by counsel* added as last sentence to conform to District Court Local Rules.

Paragraph 7(c) Compliance with Rules. *Must* changed to *shall* in first sentence; *will be required to* replaced with *shall*.

Former paragraph (8) RESTRICTIONS ON EX PARTE COMMUNICATIONS. Deleted as inconsistent with the F.R.B.P.

Paragraph (8) LAW STUDENT CERTIFICATION FOR PRACTICE IN BANKRUPTCY COURTS (former paragraph (9)). *Must* changed to *shall* in (c) and in last paragraph; the *California Rules of Professional Conduct* changed to the Rules of Professional Conduct of the State Bar of California in the last paragraph; *Rules of this Court* changed to *the Local Bankruptcy Rules* in the last paragraph.

Rule 132:

MINORS OR INCOMPETENTS incorporated in this rule as paragraph (9).

1999 Revision

Paragraph (5). JURISDICTION OF COURT TO ENFORCE STANDARDS OF PROFESSIONAL CONDUCT. In the first line, *Local Rule 2.5 of the District Court* replaced with *Local Rule 1.2 of Chapter VII of the District Court Local Rules*. New final sentence added: *A process of attorney discipline in the Bankruptcy Court is set forth in General Order 96-05 as Appendix III.*