

United States Bankruptcy Court, Southern District of Florida

Note: Local Rule 2090-1 is reproduced below for your information regarding requirements for attorney appearances for appearing before this court. There is no “bankruptcy bar” to which attorneys must be admitted. Pro Hac Vice appearances pursuant to Local Rule 2090-1(B)(2) must be initiated by submitting a motion substantially conforming to local form 44 “Motion to Appear Pro Hac Vice” along with a proposed order substantially conforming to local form 45 “Order Admitting Attorney Pro Hac Vice”. Copies of the Local Rules, Local Forms, Clerk’s Instructions and Court Guidelines can be obtained from any of the three bankruptcy court clerk’s offices or the court website www.flsb.uscourts.com.

See also Local Bankruptcy Rules 2090-2, 2091-1, and 9010-1.

Information about admission to the Federal Bar of the U.S. District Court, Southern Florida may be obtained by calling the district court attorney admission clerk at (305) 523-5265.

Rule 2090-1. Attorneys.

(A) Qualifications to Practice. Except as provided in subdivision (B) of this rule, to be qualified to practice in this court an attorney must:

- (1)** be a member of the Bar of the United States District Court for the Southern District of Florida under the Special Rules Governing the Admission and Practice of Attorneys in the District Court;
- (2)** read and remain familiar with these rules, administrative orders, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, The Florida Bar’s Rules of Professional Conduct, and the Bankruptcy Code; and
- (3)** earn at least 12 credit hours from The Florida Bar for attending or participating in CLE courses related to the subject area of “Bankruptcy Law” during each attorney’s Florida Bar three-year CLE reporting requirement. This provision will not preclude an attorney from appearing who is within a three-year CLE reporting period but has not yet earned the required 12 credit hours for that period.

Attorneys appearing pursuant to this subdivision who are not registered users of CM/ECF must include on all papers the certification contained in Local Rule 9011-4(B).

(B) Appearances Permitted as Exceptions to Qualification Requirements. An attorney who has not fulfilled the qualifications to practice set forth in subdivision (A) above, may only appear as set forth in this subdivision. Any attorney who appears pursuant to this rule shall be deemed to be familiar with, and shall be governed by, these rules, and the Rules of Professional Conduct and other ethical limitations or requirements governing the professional behavior of members of The Florida Bar.

(1) Appearances in Limited Instances. An attorney may appear in the following limited instances without resort to the requirements contained in subdivision (A) or (B)(2) of this rule: (a) the preparation and filing of a notice of appearance (pursuant to Bankruptcy Rule 9010); (b) a request for service of notices (pursuant to Bankruptcy Rule 2002); (c) the preparation and filing of a proof of claim in chapter 7, 11, 12 or 13 cases, or ballots in chapter 11 cases; (d) the filing of notices under Local Rule 3070-1(B); (e) attendance and inquiry at the meeting of creditors held under 11 U.S.C. §341; and (f) attendance and representation of a creditor at a hearing which has been noticed to all creditors generally, except for representation of a party in a contested matter governed by Bankruptcy Rule 9014, or an adversary proceeding governed by Part VII of the Bankruptcy Rules.

(2) Pro Hac Vice Appearances. Any attorney who is a member in good standing of the bar of any state, territory or insular possession of the United States, and who is qualified to practice in this court but is not a member of the bar of the United States District Court for the Southern District of Florida (a “visiting attorney”), may seek to appear *pro hac vice* in any case or proceeding before this court. Such visiting attorney shall associate with an attorney who is qualified to practice with this court, is a member in good standing of the bar of the United States District Court for the Southern District of Florida and qualified to practice before this court, and who maintains an office in this district for the practice of law (a “local attorney”). Such local attorney shall file the Local Form "Motion to Appear Pro Hac Vice" and proposed Local Form "Order Admitting Attorney Pro Hac Vice" in the relevant main bankruptcy case, unless the visiting attorney intends to appear only in a specific adversary proceeding in which case the motion shall be filed only in such adversary proceeding and the local form motion and proposed order may be edited accordingly. In the motion, the local attorney shall certify that he or she is a member in good standing of the bar of the United States District Court for the Southern District of Florida and qualified to practice before this court, that he or she is willing to act as local counsel, and that he or she will participate in the preparation and presentation of, and accept service of all papers in, the case in which the motion is filed and any adversary proceedings in which the visiting attorney appears on behalf of the same client or clients (unless the motion is limited to a particular adversary proceeding). If the motion is filed

in the main case, the local attorney must acknowledge that if he or she declines to serve as local counsel in any adversary proceeding involving the same client or clients, separate local counsel must file an additional Motion to Appear Pro Hac Vice, and that absent such separate motion and an order of this court approving the same he or she will continue to act as local counsel for the client(s) in all such proceedings.

In a separate affidavit filed with or as part of the motion, the proposed visiting attorney shall certify that he or she is qualified to practice before this court, and that he or she is a member in good standing of the bar of at least one state, territory, or insular possession of the United States, and a member in good standing of the bar of at least one United States District Court, and indicate such jurisdictions. The proposed visiting attorney must certify that he or she has never been disbarred, that he or she is not currently suspended from the practice of law in the State of Florida or any other state, territory, or insular possession of the United States, and that he or she is not currently suspended from the practice of law before any United States Court of Appeals, United States District Court, or United States Bankruptcy Court. The proposed visiting attorney shall designate local counsel consistent with this local rule. The proposed visiting attorney shall acknowledge that local counsel is required to participate in the preparation and the presentation of, and accept service in, the case and any adversary proceedings in which the visiting attorney appears on behalf of the same client or clients, unless and until other local counsel is designated under this local rule (except where the motion is limited to a particular adversary proceeding). The proposed visiting attorney shall certify that he or she is familiar with and shall be governed by the local rules of this court, the rules of professional conduct and all other requirements governing the professional behavior of members of the Florida Bar.

The court may waive the requirement of association with a local attorney upon good cause shown after the filing of a motion requesting such relief. The Local Form "Motion to Appear Pro Hac Vice" and proposed Local Form "Order Admitting Attorney Pro Hac Vice" may be modified as necessary for this purpose.

[Comment: See also Local Rule 9011-4(B)(2), required certification.]

☞ 2011 Amendment: Subdivision (B)(2) is amended to modify the procedures for pro hac vice appearance requests to provide that the local attorney, not the attorney seeking to appear pro hac vice, shall file the local form motion and proposed order, which have also been amended to reflect this change, including incorporation of a new form "Affidavit of Proposed Visiting Attorney" which must accompany the motion.

(3) Appearances by Government Attorneys. Any attorney who is an employee of the United States government, an agency thereof, or a state, municipality or agency or political subdivision thereof, may appear and participate in particular actions or proceedings before the court on behalf of such entity in the attorney's official capacity. Any attorney so appearing is subject to all of the rules of this court.

(C) Attendance at Hearings Required for Debtor's Counsel.

An attorney who makes an appearance on behalf of a debtor must attend all hearings scheduled in the debtor's case that the debtor is required to attend under any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or order of the court, unless the court has granted a motion to withdraw pursuant to Local Rule 2091-1.

(D) Duties of Debtor's Counsel.

Unless the attorney has withdrawn as attorney for the debtor pursuant to Local Rule 2091-1, an attorney who files a petition on behalf of a debtor must advise the debtor of, and assist the debtor in complying with, all duties of a debtor under 11 U.S.C. §521.

☞ 2011 Amendment: New subdivisions (C) and (D) set forth additional responsibilities for debtor's counsel.