

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE:) **PROMULGATION No. 2019-001**
)
AMENDMENTS TO THE RULES)
GOVERNING *PRO HAC VICE*)
ADMISSION TO THE VIRGIN ISLANDS)
BAR.)
_____)

ORDER OF THE COURT

THIS MATTER is before the Court pursuant to the request of the Advisory Committee on Rules for this Court to examine Supreme Court Rule 201, which governs *pro hac vice* admission to the Virgin Islands Bar, and if necessary issue amendments to clarify when additional *pro hac vice* admissions must be sought in matters assigned to the newly-established Complex Division of the Superior Court.

Having considered the Advisory Committee’s request, this Court agrees that additional clarity is needed in Rule 201 to address this and other areas of concern. We emphasize, however, that these rule amendments only serve to codify the existing—although unwritten—practices of the Office of Bar Admissions with respect to its interpretation of Rule 201. Accordingly, it is hereby

ORDERED that Supreme Court Rule 201(a) **SHALL BE AMENDED** in the following instances:

1. By striking the phrase “of record in such litigation”;
2. By striking the word “causes” and inserting in its place the word “matters”;
3. In the last sentence, by striking the word “litigation” and inserting in its place the word “matter”; and
4. By inserting the following new language at the conclusion of the existing language:

For purposes of this Rule 201, a “matter” encompasses, but is not necessarily limited to, any case, cause, lawsuit, arbitration, mediation, proceeding, litigation, dispute, or transaction, whether or not before a court or administrative agency, in which the rights and remedies of a client are implicated.

It is further

ORDERED that Supreme Court Rule 201(b) **SHALL BE AMENDED** to strike the word “case” and insert in its place the word “matter”. It is further

ORDERED that Supreme Court Rule 201 **SHALL BE AMENDED** to insert the following new language as Supreme Court Rule 201(d):

(d) Multiple Pro Hac Vice Admissions

(1) When Not Required. An individual who was previously admitted *pro hac vice* under this Rule with respect to a matter is not required to obtain a subsequent *pro hac vice* admission to continue representation with the same matter if the individual’s *pro hac vice* admission has not been terminated, and:

(i) the matter has been appealed to the Supreme Court from the Superior Court, or remanded to the Superior Court from the Supreme Court; provided, however, that this exception does not apply to collateral proceedings, such as for writ of mandamus or writ of habeas corpus.

(ii) the matter was removed from the Superior Court to the United States District Court of the Virgin Islands, and then remanded to the Superior Court from the District Court;

(iii) the matter has been assigned to a master case in accordance with Rule 93 of the Virgin Islands Rules of Civil Procedure;

(iv) the matter has been consolidated and/or coordinated with one or more other matters, whether for all purposes or for a limited purpose, and the individual does not provide any legal services with respect to the other matters; or

(v) the matter has been certified as a class action, and the individual intends to represent the class, provided, however, that client is a member of that class.

Notwithstanding these exceptions, a regularly-admitted member of the Virgin Islands Bar who serves as a sponsoring attorney must apply for and obtain a subsequent *pro hac vice* admission on behalf of an individual prior to that individual representing any other client in connection with the same matter.

(2) When Required. A regularly-admitted member of the Virgin Islands Bar who serves as a sponsoring attorney must apply for and obtain a subsequent *pro hac vice* admission on behalf of an individual who was previously admitted *pro hac vice* under this Rule if:

- (i) the individual's *pro hac vice* admission has terminated;
- (ii) the individual intends to represent another client other than the one identified in the original *pro hac vice* application, even as part of the same matter;
- (iii) the individual intends to represent the same client in a different matter;
- (iv) the matter for which the individual was admitted *pro hac vice* has been dismissed, and the matter is to be re-filed under a different docket number;
- (v) the matter has been consolidated and/or coordinated with one or more other matters, whether for all purposes or for a limited purpose, and the individual intends to provide any legal services with respect to the other matters, even with respect to the same client;
- (vi) the matter was certified as a class action and subsequently decertified, and the individual wishes to represent former members of the class other than the original client; or
- (vii) the individual wishes to perform any other action that implicates the rights and remedies of a client, and none of the exceptions set forth in Rule 201(d)(1) apply.

(3) *Notice of District Court Admission.* An individual admitted *pro hac vice* by the United States District Court of the Virgin Islands in connection with a matter that is then remanded to the Superior Court may continue to represent the same client in the Superior Court proceeding without applying for admission under this Rule, provided that the sponsoring attorney files a notice with the Clerk of the Supreme Court no later than fifteen (15) days from the date of the remand order, which must contain:

- (i) a copy of the District Court orders granting *pro hac vice* admission and subsequently remanding the matter to the Superior Court,
- (ii) the docket number of the Superior Court proceeding,
- (iii) proof of payment of *pro hac vice* dues to the Virgin Islands Bar Association, and
- (v) an affidavit sworn by the individual admitted *pro hac vice* that he or she has read the Virgin Islands Rules of Professional Conduct and consents to the disciplinary jurisdiction of this Court.

Upon being advised by the Court that he or she qualifies for reciprocal admission under this Rule, the individual shall be administered the oath of office within thirty (30) days and shall file an Annual Registration Statement for the current year and pay the \$50.00 annual assessment no earlier than fourteen (14) days and no later than one (1) day before taking the oath of office. An individual who qualifies for reciprocity under this Rule may continue to represent the client in proceedings before the Superior Court during the period between the date of the District Court's remand order and the date the oath of office is administered, provided that all filing deadlines and other requirements are met.

Pro hac vice admission granted by the District Court shall not automatically continue if the matter was dismissed rather than remanded.

(4) *Procedure for Multiple Admissions.* An individual required to obtain a subsequent *pro hac vice* admission under Rule 201(d)(2) shall satisfy the same requirements set forth in Rule 201(a) and follow the same admission procedure, except:

(i) the applicant need not submit new certificates of good standing, but may rely on the certificates previously filed, provided that the applicant certifies under oath that his or her status has not changed in any of those jurisdictions. If the applicant has been subsequently admitted to another jurisdiction, the applicant shall submit a certificate of good standing from that jurisdiction;

(ii) the applicant need not register in accordance with Supreme Court Rule 203(e) multiple times for the same registration period; and

(iii) when the same applicant seeks *pro hac vice* admission in a large number of related matters under the supervision of the same sponsoring attorney, the sponsoring attorney may file a motion with the Court for leave to seek *pro hac vice* admission in all those matters pursuant to a single application.

Applicants for subsequent *pro hac vice* admissions must pay a separate filing fee and administrative fee for each matter for which they seek *pro hac vice* admission, even if the same application seeks admission for multiple matters.

It is further

ORDERED that all members of the Bar are **ADVISED** that because Rule 201(d) codifies existing practices rather than establishing new regulations, any individual currently practicing law in the Virgin Islands on a *pro hac vice* basis in violation of Rule 201(d) is engaged in the unauthorized practice of law. Such individuals, and any regularly-admitted members of the Bar who have worked in association with them, will receive amnesty for any prior acts of unauthorized practice of law if:

- (1) on or before March 31, 2019, the individual files an application for *pro hac vice* admission in accordance with Rule 201(d), pays any and all outstanding Bar dues and assessment fees, or otherwise cures their non-compliance; and
- (2) an unauthorized practice of law complaint has not been filed or an investigation otherwise initiated prior to the date of this Order.

It is further

ORDERED that, pursuant Rule 37(a) of the Virgin Islands Rules of Appellate Procedure, the Bench, Bar, and the public **MAY FILE** comments with the Clerk of this Court no later than thirty (30) days from the date of entry of this Order. It is further

ORDERED that these amendments **SHALL GO INTO EFFECT IMMEDIATELY** unless modified as a result of comments submitted under Rule 37(a).

ORDERED that copies of this order be directed to the appropriate parties.

SO ORDERED this 5th day of February, 2019.

/s/ Ive Arlington Swan
IVE ARLINGTON SWAN
Associate Justice

/s/ Maria M. Cabret
MARIA M. CABRET
Associate Justice

/s/ Rhys S. Hodge
RHYS S. HODGE
Chief Justice

ATTEST:
VERONICA J. HANDY, ESQ.
Clerk of the Court