

AMENDMENT TO THE CALIFORNIA RULES OF COURT
Adopted by the Supreme Court on July 24, 2024, effective July 24, 2024

1 **Rule 9.40. Counsel *pro hac vice***

2
3 **(a) Eligibility**

4
5 A person who is not a licensee of the State Bar of California but who is an attorney
6 in good standing of and eligible to practice before the bar of any United States
7 court or the highest court in any state, territory, or insular possession of the United
8 States, and who has been retained to appear in a particular cause pending in a court
9 of this state, may in the discretion of such court be permitted upon written
10 application to appear as counsel *pro hac vice*, provided that an active licensee of
11 the State Bar of California is associated as attorney of record. No person is eligible
12 to appear as counsel *pro hac vice* under this rule if the person is:

- 13
14 (1) A resident of the State of California;
- 15
16 (2) Regularly employed in the State of California; or
- 17
18 (3) Regularly engaged in substantial business, professional, or other activities in
19 the State of California.

20
21 *(Subd (a) amended effective January 1, 2019; previously amended effective January 1,*
22 *2007.)*

23
24 **(b) Repeated appearances as a cause for denial**

25
26 Absent special circumstances, repeated appearances by any person under this rule is
27 a cause for denial of an application.

28
29 *(Subd (b) lettered effective January 1, 2007; adopted as part of subd (a) effective*
30 *September 13, 1972.)*

31
32 **(c) Application**

- 33
34 (1) *Application in superior court*

35
36 A person desiring to appear as counsel *pro hac vice* in a superior court must
37 file with the court a verified application together with proof of service by
38 mail in accordance with Code of Civil Procedure section 1013a of a copy of
39 the application and of the notice of hearing of the application on all parties
40 who have appeared in the cause and on the State Bar of California at its San
41 Francisco office. The notice of hearing must be given at the time prescribed

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1 in Code of Civil Procedure section 1005 unless the court has prescribed a
2 shorter period.

3
4 (2) *Application in Supreme Court or Court of Appeal*

5
6 An application to appear as counsel *pro hac vice* in the Supreme Court or a
7 Court of Appeal must be made as provided in rule 8.54, with proof of service
8 on all parties who have appeared in the cause and on the State Bar of
9 California at its San Francisco office.

10
11 *(Subd (c) amended and relettered effective January 1, 2007; adopted as part of subd (b)*
12 *effective September 13, 1972; subd (b) previously amended effective October 3, 1973,*
13 *September 3, 1986, January 17, 1991, and March 15, 1991.)*

14
15 **(d) Contents of application**

16 The application must state:

- 17
18
19 (1) The applicant's residence and office address;
- 20
21 (2) The courts to which the applicant has been admitted to practice and the dates
22 of admission;
- 23
24 (3) That the applicant is a licensee in good standing in those courts;
- 25
26 (4) That the applicant is not currently suspended or disbarred in any court;
- 27
28 (5) The title of each court and cause in which the applicant has filed an
29 application to appear as counsel *pro hac vice* in this state in the preceding
30 two years, the date of each application, and whether or not it was granted;
31 and
- 32
33 (6) The name, address, and telephone number of the active licensee of the State
34 Bar of California who is attorney of record.

35
36 *(Subd (d) amended effective January 1, 2019; adopted as part of subd (b) effective*
37 *September 13, 1972; subd (b) previously amended effective October 3, 1973, September 3,*
38 *1986, January 17, 1991, and March 15, 1991; previously amended and lettered effective*
39 *January 1, 2007.)*

40
41 **(e) Fee for application**

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1 ~~The State Bar of California may set an appropriate application fee to be paid by~~
2 ~~counsel *pro hac vice*. An applicant for permission to appear as counsel *pro hac vice*~~
3 ~~under this rule must pay a reasonable fee not exceeding \$50 to the State Bar of~~
4 ~~California with the copy of the application and the notice of hearing that is served~~
5 ~~on the State Bar. The Board of Trustees of the State Bar of California will fix the~~
6 ~~amount of the fee:~~

7
8 ~~(1) To defray the expenses of administering the provisions of this rule that are~~
9 ~~applicable to the State Bar and the incidental consequences resulting from~~
10 ~~such provisions; and~~

11
12 ~~(2) Partially to defray the expenses of administering the Board's other~~
13 ~~responsibilities to enforce the provisions of the State Bar Act relating to the~~
14 ~~competent delivery of legal services and the incidental consequences~~
15 ~~resulting therefrom.~~

16
17 ~~(Subd (e) amended effective July 24, 2024; adopted as subd (c) effective September 3,~~
18 ~~1986; previously amended and relettered effective January 1, 2007; previously amended~~
19 ~~effective January 1, 2019.)~~

20
21 **(f) Counsel *pro hac vice* subject to jurisdiction of courts and State Bar**

22
23 A person permitted to appear as counsel *pro hac vice* under this rule is subject to
24 the jurisdiction of the courts of this state with respect to the law of this state
25 governing the conduct of attorneys to the same extent as a licensee of the State Bar
26 of California. The counsel *pro hac vice* must familiarize himself or herself and
27 comply with the standards of professional conduct required of licensees of the State
28 Bar of California and will be subject to the disciplinary jurisdiction of the State Bar
29 of California with respect to any of his or her acts occurring in the course of such
30 appearance. Article 5 of chapter 4, division 3. of the Business and Professions Code
31 and the Rules of Procedure of the State Bar govern in any investigation or
32 proceeding conducted by the State Bar of California under this rule.

33
34 ~~(Subd (f) amended effective July 24, 2024; previously relettered as subd (d) effective~~
35 ~~September 3, 1986; previously amended and relettered effective January 1, 2007;~~
36 ~~previously amended effective January 1, 2019.)~~

37
38 **(g) Representation in cases governed by the Indian Child Welfare Act (25 U.S.C. §**
39 **1903 et seq.)**

40
41 (1) The requirement in (a) that the applicant associate with an active licensee of
42 the State Bar of California does not apply to an applicant seeking to appear in

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1 a California court to represent an Indian tribe in a child custody proceeding
2 governed by the Indian Child Welfare Act; and
3

- 4 (2) An applicant seeking to appear in a California court to represent an Indian
5 tribe in a child custody proceeding governed by the Indian Child Welfare Act
6 constitutes a special circumstance for the purposes of the restriction in (b)
7 that an application may be denied because of repeated appearances.
8

9 *(Subd (g) adopted effective January 1, 2019.)*
10

11 **(h) Supreme Court and Court of Appeal not precluded from permitting argument**
12 **in a particular case**
13

14 This rule does not preclude the Supreme Court or a Court of Appeal from
15 permitting argument in a particular case from a person who is not a licensee of the
16 State Bar of California, but who is licensed to practice in another jurisdiction and
17 who possesses special expertise in the particular field affected by the proceeding.
18

19 *(Subd (h) amended effective July 24, 2024; previously relettered as subd (e) effective*
20 *September 3, 1986; previously amended and relettered as subd (g) effective January 1,*
21 *2007; previously amended and relettered as subd (h) effective January 1, 2007.)*
22

23 **(i) Inherent Power of Supreme Court**
24

25 Nothing in this rule may be construed as affecting the power of the Supreme Court
26 to exercise its inherent jurisdiction over the practice of law in California.
27

28 *(Subd (i) adopted effective July 24, 2024.)*
29

30 *Rule 9.40 amended effective July 24, 2024; adopted as rule 983 by the Supreme Court effective*
31 *September 13, 1972; previously amended and renumbered effective January 1, 2007; previously*
32 *amended effective October 3, 1973, September 3, 1986, January 17, 1991, March 15, 1991, and*
33 *January 1, 2019.*
34

35 **Rule 9.43. Out-of-state attorney arbitration counsel**
36

37 **(a) Definition**
38

39 An “out-of-state attorney arbitration counsel” is an attorney who is:
40

- 41 (1) Not a licensee of the State Bar of California but who is an attorney in good
42 standing of and eligible to practice before the bar of any United States court

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1 or the highest court in any state, territory, or insular possession of the United
2 States, and who has been retained to appear in the course of, or in connection
3 with, an arbitration proceeding in this state;
4

5 (2) Has served a certificate in accordance with the requirements of Code of Civil
6 Procedure section 1282.4 on the arbitrator, the arbitrators, or the arbitral
7 forum, the State Bar of California, and all other parties and counsel in the
8 arbitration whose addresses are known to the attorney; and
9

10 (3) Whose appearance has been approved by the arbitrator, the arbitrators, or the
11 arbitral forum.
12

13 *(Subd (a) amended effective January 1, 2019; previously amended effective January 1,*
14 *2007.)*
15

16 **(b) State Bar out-of-state attorney arbitration counsel program**
17

18 The State Bar of California must establish and administer a program to implement
19 the State Bar of California’s responsibilities under Code of Civil Procedure section
20 1282.4. The State Bar of California’s program may be operative only as long as the
21 applicable provisions of Code of Civil Procedure section 1282.4 remain in effect.
22

23 *(Subd (b) amended effective January 1, 2007.)*
24

25 **(c) Eligibility to appear as an out-of-state attorney arbitration counsel**
26

27 To be eligible to appear as an out-of-state attorney arbitration counsel, an attorney
28 must comply with all of the applicable provisions of Code of Civil Procedure
29 section 1282.4 and the requirements of this rule and the related rules and
30 regulations adopted by the State Bar of California.
31

32 *(Subd (c) amended effective January 1, 2007.)*
33

34 **(d) Discipline**
35

36 An out-of-state attorney arbitration counsel who files a certificate containing false
37 information or who otherwise fails to comply with the standards of professional
38 conduct required of licensees of the State Bar of California is subject to the
39 disciplinary jurisdiction of the State Bar of California with respect to any of his or
40 her acts occurring in the course of the arbitration.
41

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1 *(Subd (d) amended effective July 24, 2024; previously amended effective January 1, 2007;*
2 *and January 1, 2019.)*

3
4 **(e) Disqualification**

5
6 Failure to timely file and serve a certificate or, absent special circumstances,
7 appearances in multiple separate arbitration matters are grounds for disqualification
8 from serving in the arbitration in which the certificate was filed.

9
10 *(Subd (e) amended effective January 1, 2007.)*

11
12 **(f) Fee**

13
14 The State Bar of California may set an appropriate application fee to be paid by the
15 out-of-state attorney arbitration counsel.~~Out-of-state attorney arbitration counsel~~
16 ~~must pay a reasonable fee not exceeding \$50 to the State Bar of California with the~~
17 ~~copy of the certificate that is served on the State Bar.~~

18
19 *(Subd (f) amended effective July 24, 2024; previously amended effective January 1, 2007.)*

20
21 **(g) Inherent power of Supreme Court**

22
23 Nothing in ~~these rules~~ this rule may be construed as affecting the power of the
24 Supreme Court to exercise its inherent jurisdiction over the practice of law in
25 California.

26
27 *(Subd (g) amended effective July 24, 2024; previously amended effective January 1, 2007.)*

28
29 *Rule 9.43 amended effective July 24, 2024; adopted as rule 983.4 by the Supreme Court effective*
30 *July 1, 1999; previously amended and renumbered effective January 1, 2007; previously*
31 *amended effective January 1, 2019.*

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