

PROPOSAL TO AMEND THE LOCAL RULES

The full Court met in executive session on Thursday, January 22, 2009, and approved a proposal to amend LR83.11 of the Civil Rules of this Court as follows (additions shown thus, and deletions shown ~~thus~~):

LR83.11. Trial Bar

1. (a) Definitions. The following definitions shall apply to this rule:

(1) The term “testimonial proceedings” refers to proceedings that meet all of the following criteria:

- (A) they are evidentiary proceedings in which all testimony is given under oath and a record is made of the testimony;
- (B) the witness or witnesses are subject to cross-examination;
- (C) a presiding officer is present;
- (D) the parties to such proceedings are generally represented by attorneys; and
- (E) where a proceeding was held before an administrative agency, the findings and determinations of the agency are based upon the proceeding and are reviewable for sufficiency of evidence by a court of record.

Procedures limited to taking the deposition of a witness do not constitute testimonial proceedings for the purposes of this rule.

(2) The term “qualifying trial” refers to an evidentiary proceeding that meets the following criteria:

(A) it lasts at least one day;

(B) it must be a trial or hearing involving substantial testimonial proceedings going to the merits; and

(C) it must be held in open court before one of the following: a judge or magistrate judge of a United States district court; a judge of a United States bankruptcy court; a judge of the United States Tax Court; a judge of a trial court of record of a state, the District of Columbia, or a territory of the United States; or any administrative law judge.

(3) The term “participation units” shall mean a qualifying trial in which the petitioner participated as the lead counsel or the assistant to the lead counsel.

(4) The term “observation unit” shall mean a qualifying trial the petitioner observed while being supervised by a supervising attorney who consulted with the observer about the trial. At the time of the observation the supervising attorney must either have been a member of the trial bar of this Court or have had previous trial experience equivalent to at least 4 participation units.

(5) The term “simulation unit” shall mean a trial advocacy program in which the focus is experiential, as contrasted to lecture in which the petitioner satisfactorily participated either as a law school or a continuing legal education course.

(6) The term “training unit of the District Court” shall mean participation in a training seminar officially sanctioned by the Court.

(7) The term “qualifying unit of trial experience” shall include any of the following: participation units, observation units, simulation units, and training units. A petitioner shall be credited the following qualifying units of trial experience for the experience

indicated:

(A) for each participation unit, 2 units where the trial lasted 7 days or less, 3 units where the trial lasted from 10 to 12 full days, and 4 units where the trial lasted 13 or more full days;

(B) for each observation unit, 1 unit;

(C) for each simulation unit, 2 units; and

(D) for each training unit of the District Court, 1 unit.

(8) The term “required trial experience” shall mean not less than 4 qualifying units of trial experience.

(9) The term “*pro bono* panel” shall refer to a panel of members of the trial bar selected pursuant to LR83.35(b) for the purpose of representing or assisting in the representation of parties unable to afford to hire a member of the trial bar.

(NOTE: See Regulations promulgated by the District Admissions Committee for additional material relating to admissions. The Regulations are located in the Appendix to the local Rules.)

(b) Qualifications. An applicant for admission to the trial bar of this Court must be a member in good standing of the general bar of this Court and provide evidence of having the required trial experience. Anyone wishing to apply for admission to the trial bar who is not a member of the bar of this Court may apply for admission to both bars simultaneously. ~~An attorney representing the United States, a state or local government or an agency of any of those governments who is not a member of the general bar of this Court may be admitted to the trial bar for the sole purpose of representing such government or agency in the attorney’s official capacity provided that the attorney is a member in good standing of the bar of the highest court in any state or the District of Columbia and provides evidence to the court of having the required trial experience.~~

(c) Petition Form. The Executive Committee will approve a form of petition to be used by anyone applying for admission to the trial bar. Copies of the approved form will be provided on request by the clerk.

(d) Screening the Petition. The clerk, under the supervision of the Executive Committee, will screen each petition to assure that it is filed on the correct form, has been completed, and contains sufficient information to establish that the petitioner meets the qualifications required for the trial bar. Where these requirements are met, an indication to that effect will be placed on the petition and the petitioner will be notified that the petition is approved. Where the requirements are not met, the petition will be returned to the applicant with appropriate instructions.

(e) Admission Fee. Each petitioner shall pay an admission fee upon the filing of the petition, provided that in the event the petitioner is not admitted, the petitioner may request that the fee be refunded. The amount of the fee shall be established by the court.

The clerk shall deposit the fee in the District Court Fund.

(f) Duty to Supervise. Every member of the trial bar shall be available for appointment by the court to supervise attorneys who are in the process of obtaining observation units needed to qualify for membership in the trial bar. Such appointments shall be made in a manner so as to allocate the responsibility imposed by this rule equally among all members of the trial bar.

(g) Duty to Accept Appointments. Each member of the trial bar shall be available for appointment by the court to represent or assist in the representation of those who cannot afford to hire a member of the trial bar. Appointments under this rule shall be made in a manner such that no member of the trial bar shall be required to accept more than one appointment during any 12 month period.

(h) Withdrawal from Trial Bar. A member of the trial bar may, on motion for good cause shown, voluntarily withdraw from said bar. Such motion shall be filed with the clerk for presentation to the Executive Committee. Where the motion to withdraw is made by a member of the current *pro bono* panel the name of the attorney will be removed from the *pro bono* panel if the motion is granted.

(i) Reinstatement. Any attorney permitted to withdraw as a member of the trial bar pursuant to section (h) who wishes to be reinstated must file a petition for reinstatement with the clerk for presentation to the Executive Committee. Where the attorney was a member of a *pro bono* panel at the time the petition to withdraw was filed, the petition for reinstatement shall include a statement indicating the attorney's present willingness and ability to accept an appointment under LR83.35 through LR83.49. If the committee grants the motion in such an instance, it shall direct that the attorney be included in the *pro bono* panel and remain there for one year or until the attorney is appointed, whichever comes first.

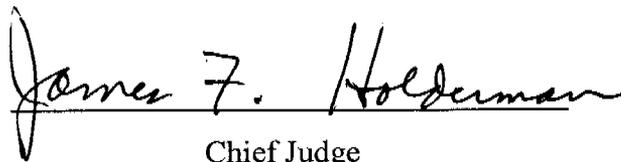
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COMMENT: The proposed modification will alleviate confusion regarding the trial bar status of government attorneys who appear before the Court in their official capacity. By direction of the full Court and pursuant to 28 U.S.C. §207(b) regarding appropriate public notice and opportunity for comment, the Clerk is directed to: (a) cause the proposal to amend revised Local Rule 83.11 to be posted in the Courthouses at Chicago and Rockford, (b) cause notice of the proposal and requests for comment to be published in the *Chicago Daily Law Bulletin*, (c) cause notice of the proposal and requests for comment to be posted on the web site for the United States District Court Northern District of Illinois, (d) indicate in such notice a final date for receipt of comments, which date shall be sixty days from the first date of publication in the *Law Bulletin*, (e) collect and distribute among the members of the Advisory Committee for Local Rules all comments received, and (f) following receipt of a copy of the report and recommendation of the advisory committee to distribute copies of the comments together with

copies of the report and recommendation among the members of the Court for consideration at a regular meeting of the full Court.

ENTER:

FOR THE COURT


Chief Judge

Dated at Chicago, Illinois this 30th day of January, 2009.