

# Order

Michigan Supreme Court  
Lansing, Michigan

September 25, 2024

Elizabeth T. Clement,  
Chief Justice

ADM File No. 2022-10

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
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Justices

Amendment of Rule  
8.126 of the Michigan  
Court Rules

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On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Rule 8.126 of the Michigan Court Rules is adopted, effective January 1, 2025.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

Rule 8.126 Temporary Admission to the Bar

(A) Definitions. For purposes of this rule:

(1) “Foreign attorney” is an attorney who is

(a) licensed to practice law in another state or territory of the United States of America, in the District of Columbia, in a Tribal court, or in a foreign country;

(b) not a member of the Bar; and

(c) not disbarred or suspended in any jurisdiction.

(2) “Sponsoring attorney” is an attorney who is a member of the Bar.

(3) “Tribunal” is a court, administrative agency, or arbitrator.

(4) “The Bar” is the State Bar of Michigan.

(BA) Temporary Admission.

(1) To request temporary admission to practice before tribunals in this state, a foreign attorney must proceed through a sponsoring attorney. Permission for

a foreign attorney to appear and practice is within the discretion of the tribunal.

- (2) Except as provided in subrule (B)(3), a foreign attorney may not appear in more than five cases in any 365-day period.
- (3) For a foreign attorney who has submitted, pursuant to BLE Rule 5, an application to practice law without examination, and for the time period in which the foreign attorney's application is pending before the Board of Law Examiners, the foreign attorney shall not be subject to any limitation on the number of cases in which the foreign attorney may be eligible for temporary admission.

A foreign attorney whose application for admission to practice law without examination has been withdrawn or decided by the Board of Law Examiners must notify the Bar and will no longer be eligible for unlimited temporary admission under this subrule.

- (4) After paying the fee for temporary admission with the first application for temporary admission as required by subrule (C)(2), the following foreign attorneys shall have fees waived for all subsequent applications for temporary admission for the time period in which the foreign attorney's application for admission to practice law is pending before the Board of Law Examiners:
- (a) employees of a public or nonprofit defender office or a prosecutor's office;
  - (b) employees of a legal services program that is a grantee of the federal Legal Services Corporation or the Michigan State Bar Foundation; and
  - (c) employees of a law school clinic that provides services on the basis of indigence.

~~Except as otherwise provided in this rule, an out of state attorney may seek temporary admission as determined by this subsection. Any person who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, or in any foreign country, and who is not disbarred or suspended in any jurisdiction, and who is eligible to practice in at least one jurisdiction, may be permitted to appear and practice in a specific case in a court, before an administrative tribunal or agency, or in a specific arbitration proceeding in this state when associated with and on motion of an active member of the State~~

~~Bar of Michigan who appears of record in the case. An out-of-state attorney may be temporarily admitted to practice under this rule in no more than five cases in a 365-day period. Permission to appear and practice is within the discretion of the court, administrative tribunal or agency, or arbitrator and may be revoked at any time for misconduct. For purposes of this rule, an out-of-state attorney is one who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, or in a foreign country and who is not a member of the State Bar of Michigan.~~

~~(C1)~~ Procedure for Foreign Attorneys.

(1) The sponsoring attorney must appear as counsel of record and file a motion asking the tribunal to grant the foreign attorney temporary admission to practice. The motion must be supported with:

(a) a certificate of good standing for the foreign attorney issued within the last 30 days by a jurisdiction where the foreign attorney is licensed and eligible to practice;~~Motion. An attorney seeking temporary admission must be associated with a Michigan attorney. The Michigan attorney with whom the out-of-state attorney is associated shall file with the court or administrative tribunal or agency, or arbitrator an appearance and a motion that seeks permission for the temporary admission of the out-of-state attorney. The motion shall be supported by a current certificate of good standing issued by a jurisdiction where the out-of-state attorney is licensed and eligible to practice, the document supplied by the State Bar of Michigan showing that the required fee has been paid and an affidavit of the out-of-state attorney seeking temporary admission, which affidavit shall verify~~

(b) an affidavit signed by the foreign attorney that verifies:

(i) the jurisdiction(s) in which the foreign attorney is or has been licensed or has sought licensure;

(ii) the jurisdiction(s) where the foreign attorney is presently eligible to practice and the foreign attorney's good standing in all jurisdictions where licensed;

(iii) that the foreign attorney is not disbarred, or suspended from the practice of law, nor in any jurisdiction, and is not the subject of any pending disciplinary action, and that the attorney is licensed and is in good standing in any all jurisdictions where licensed; and

(iv) that the foreign attorney he or she is familiar with the Michigan Rules of Professional Conduct, Michigan Court Rules, and the Michigan Rules of Evidence, and these court rules.

(v) for foreign attorneys who are not subject to the 5-case limitation described in subrule (B)(2), that the foreign attorney has applied for admission to practice law under BLE Rule 5 and that the application is pending before the Board of Law Examiners.

(c) a copy of any disciplinary dispositions concerning the foreign attorney;

~~The out of state attorney must attach to the affidavit copies of any disciplinary dispositions. The motion shall include an attestation of the Michigan attorney that the attorney has read the out of state attorney's affidavit, has made a reasonable inquiry concerning the averments made therein, believes the out of state attorney's representations are true, and agrees to ensure that the procedures of this rule are followed. The motion shall also include the addresses and email addresses of both attorneys.~~

(d) a statement by the sponsoring attorney that the sponsoring attorney:

(i) has read the foreign attorney's affidavit and any disciplinary dispositions concerning the foreign attorney;

(ii) believes the foreign attorney's representations to be true; and

(iii) will ensure that the procedures of this rule are followed.

(2) Prior to filing the motion with the tribunal, the motion and supporting materials must be filed with the Bar together with a fee equal to the discipline and client-protection portions of a Bar member's annual dues or a request to waive the fee as provided in subrule (B)(4). Within seven days thereafter, the Bar must report to the tribunal, the sponsoring attorney, and the foreign attorney:

(a) the jurisdiction(s) in which the foreign attorney is licensed;

(b) that the fee has been paid to the Bar or waived; and

- (c) the number of times that the foreign attorney has been granted temporary admission to practice within the past 365 days and a statement regarding whether the foreign attorney is subject to the 5-case limitation described in subrule (B)(2).
- (3) If, after receiving the Bar's report, the tribunal finds that the requirements of this rule have been met, it may issue an order granting the foreign attorney temporary admission to practice in this state. The tribunal shall not enter such an order until after it receives the Bar's report.
- (4) If a tribunal issues an order granting the foreign attorney temporary admission to practice in this state, the foreign attorney must file a copy of the order with the Bar within seven days.
- (5) The foreign attorney must notify the Bar if the case is dismissed or closed prior to the tribunal granting or denying temporary admission.
- (6) Within seven days of learning that they are no longer in good standing with any jurisdiction where licensed or temporarily admitted to practice, the foreign attorney must notify the Bar and the tribunal(s) in which the foreign attorney is temporarily admitted to practice under this rule.
- (7) By seeking permission to appear under this rule, the foreign attorney consents to the jurisdiction of Michigan's attorney disciplinary system.
- (b) ~~Fee. In each case in which an out-of-state attorney seeks temporary admission in Michigan, the out-of-state attorney must pay a fee equal to the discipline and client protection portions of a bar member's annual dues. The fee must be paid electronically to the State Bar of Michigan, in conjunction with submission of an electronic copy of the motion, the certificate of good standing and the affidavit to the State Bar of Michigan, pursuant to procedures established by the State Bar of Michigan. Upon receipt of the fee remitted electronically, confirmation of payment will issue electronically to the out-of-state attorney through the State Bar of Michigan's automated process.~~

~~Within seven days after receipt of the copy of the motion and fee, the State Bar of Michigan must notify the court, administrative tribunal or agency, or arbitrator and both attorneys whether the out-of-state attorney has been granted permission to appear temporarily in Michigan within the past 365 days, and, if so, the number of such appearances. The notification will be issued electronically, pursuant to the procedures established by the State Bar of Michigan. No order~~

~~or other writing granting permission to appear in a case shall be entered by a court, administrative tribunal or agency, or arbitrator until the notification is received from the State Bar of Michigan.~~

(D) Duration and Scope of Temporary Admission.

- (1) If the tribunal granting temporary admission to practice is a court, then the temporary admission continues for the entire case, including through all appeals, any remands, and any facilitation, mediation, or arbitration that may be ordered by a court.
- (2) If the tribunal granting temporary admission to practice is an arbitrator or administrative agency, that tribunal may grant a foreign attorney temporary admission to practice only for the limited purpose of representing a party in the arbitration or administrative proceeding. If the arbitration or administrative proceeding results in a case or other proceeding before a court, then the foreign attorney must apply for temporary admission before the court.

(E) Revocation. The tribunal before whom a foreign attorney is practicing:

- (1) may revoke the attorney's temporary admission at any time for misconduct, or
- (2) must revoke the attorney's temporary admission upon receiving notice that the attorney is no longer in good standing under subrule (C)(6).

If the tribunal revokes a foreign attorney's temporary admission under this rule, the tribunal must immediately notify the foreign attorney, the Bar, the sponsoring attorney, the Attorney Grievance Commission, and the licensing authority in the state(s) in which the attorney is permanently licensed, of its decision.

(F) A Sponsoring Attorney.

- (1) If a tribunal allows a sponsoring attorney to withdraw, another member of the Bar must appear as a sponsoring attorney with the foreign attorney. A sponsoring attorney must have the authority to conduct the case or proceeding if the foreign attorney does not or is unable to do so for any reason.
- (2) After a foreign attorney is granted temporary admission to practice, a tribunal may waive the requirements under subrule (1).

- (G) Distribution of SBM Fee. If a request for investigation is filed with the grievance administrator against a foreign attorney temporarily admitted to practice under this rule, the entire amount of the fee(s) paid to the Bar for the case(s) in which the allegations of misconduct arose must be transferred to the disciplinary system.

~~The State Bar of Michigan shall retain the discipline portion of the fee for administration of the request for temporary admission and disciplinary oversight and allocate the client protection portion to the Client Protection Fund. If a request for investigation is filed with the grievance administrator against an attorney while temporarily admitted to practice in Michigan, the entire amount of the administration fee paid by that attorney for the case in which the allegations of misconduct arose would be transferred to the disciplinary system.~~

- (c) ~~Order.~~ Following notification by the State Bar of Michigan, if the out-of-state attorney has been granted permission to appear temporarily in fewer than 5 cases within the past 365 days, the court, administrative tribunal or agency, or arbitrator may enter an order granting permission to the out-of-state attorney to appear temporarily in a case. If an order or other writing granting permission is entered, the Michigan attorney shall submit an electronic copy of the order or writing to the State Bar of Michigan within seven days.
- (d) ~~By seeking permission to appear under this rule, an out-of-state attorney consents to the jurisdiction of Michigan's attorney disciplinary system.~~
- (HB) Waiver. An foreign attorney applicant is not required to associate with a sponsoring attorney local counsel, limited to the number of appearances to practice, or required to pay the fee to the ~~State Bar of Michigan~~, if the foreign attorney applicant establishes to the satisfaction of the tribunal court in which the foreign attorney seeks to appear that:
- (1) the foreign attorney applicant appears for the limited purpose of participating in a child custody proceeding as defined by MCL 712B.3(b) in a Michigan court pursuant to the Michigan Indian Family Preservation Act, MCL 712B.1 *et seq.*; and
  - (2) the foreign attorney applicant represents an Indian tribe as defined by MCL 712B.3; and
  - (3) the foreign attorney applicant presents an affidavit from the Indian child's tribe asserting the tribe's intent to intervene and participate in the state court

proceeding, and averring the child's membership or eligibility for membership under tribal law; and

- (4) the foreign attorney~~applicant~~ presents an affidavit that verifies:
- (a) the jurisdiction(s) in which the foreign attorney is or has been licensed or has sought licensure;
  - (b) the jurisdiction(s) in which~~where~~ the foreign attorney is presently admitted and eligible to practice and is in good standing in all jurisdictions where licensed;
  - (c) that the foreign attorney is not disbarred, ~~or~~ suspended from the practice of law in any jurisdiction, nor is not the subject of any pending disciplinary action, in any jurisdiction~~and that the attorney is licensed and is in good standing in all jurisdictions where licensed~~; and
  - (d) that the foreign attorney~~he or she~~ is familiar with the Michigan Rules of Professional Conduct, ~~Michigan Court Rules, and the Michigan Rules of Evidence, and these rules.~~
- (5) If the court in which the foreign attorney seeks to appear is satisfied that the foreign~~out of state~~ attorney has met the requirements in this subrule, the court shall enter an order authorizing the foreign~~out of state~~ attorney's temporary admission.

*Staff Comment (ADM File No. 2022-10):* The amendment of MCR 8.126 clarifies and streamlines the process for pro hac vice admission to practice in Michigan courts. Specific changes include updated terms and definitions, a new exception to the annual 5-case limitation, waiver of fees for certain foreign attorneys, clarifying the duration and scope of the temporary admission, and setting out a procedure in the event a sponsoring attorney withdraws from sponsoring the foreign attorney.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 25, 2024

Clerk